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MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
CENTRAL VALLEY AUDITORIUM
SACRAMENTO, CALIFORNIA

TUESDAY, APRIL 13, 2004
9:30 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Michael Paparian

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Marie Carter, Chief Counsel

Blanch Harbridge-Wright, Assistant Director

Jim Lee, Deputy Director

Howard Levenson, Deputy Director

Caroll Mortensen, Assistant Director

John Myers, Assistant Director

Rubia Packard, Assistant Director

Pat Schiavo, Deputy Director

Joanne Vorhies, Acting Assistant Director

Patty Wohl, Deputy Director

Patty Bertram

Deborah Borzelleri, Staff Counsel

Al Chaney

Bob Conheim, Staff Counsel

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Don Dier

Judy Friedman

Sue Happersberger

Jeff Hunts

Sue Ingle

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Cara Morgan

Matt McCarron

Bill Orr

Trevor O'Shaughnessy

Chris Peck

Terri Persons

John Sitts

Mike Sweeney

Georgianne Turner

Shirely Willd-Wagner

ALSO PRESENT

Johnnie P. Carson, III, Californians Against Waste

Sean Edgar, CRRC

Thomas Hogue, United Datatech/ECS Refining

APPEARANCES CONTINUED

ALSO PRESENT

Yvonne Hunter, League of California Cities

Gordon Innes, State Water Resources Control Board

Steve Kalvelage, Sacramento County LEA

Jeff Kuypers, Hewlett-Packard

Barbara Miller, City of Fresno/Code Enforcement Division

Mark Murray, Californians Against Waste

William O'Rullian, Kern County Environmental Health
Services Department

Randy Pollack, Soap & Detergent Association

Manuel Ruiz, City of Madera Redevelopment Agency

Tim Shestek, American Chemistry Council

Larry Sweetser, Rural Counties - ESJPA

Barry Takalou, CRM

Chuck White, Waste Management

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: Welcome,
3 everybody, to the April Board meeting of the California
4 Integrated Waste Management Board.

5 Please call the roll, Ms. Waddell.

6 SECRETARY WADDELL: Paparian?

7 BOARD MEMBER PAPARIAN: Here.

8 SECRETARY WADDELL: Peace?

9 BOARD MEMBER PEACE: Here.

10 SECRETARY WADDELL: Moulton-Patterson?

11 CHAIRPERSON MOULTON-PATTERSON: Here.

12 We don't have a quorum yet. But I understand Mr.
13 Washington is here and will be down shortly.

14 So with that, we'll go ahead.

15 And any ex partes, Ms. Piece?

16 BOARD MEMBER PEACE: No, I'm up to date.

17 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

18 BOARD MEMBER PAPARIAN: I'm up to date.

19 CHAIRPERSON MOULTON-PATTERSON: And I believe I'm
20 up to date as of this morning and have distributed any
21 late ex partes to everyone.

22 So this is our first time in this room with the
23 shrinking group. And it just seems a little different.
24 We will be having some resolutions to honor Mr. Jones.
25 And Patty Bertram will be coming by to receive a

1 resolution.

2 So, Ms. Piece, would you like to give your
3 report.

4 Just if you have a report.

5 Yeah, we don't do committees because we -- with
6 our small number of members, we haven't resumed our
7 committees yet. And we're going to be doing a little
8 reorganization as soon as we get some new members.

9 BOARD MEMBER PEACE: Okay. Since the last Board
10 meeting, on March 18th Pat Schiavo and Cara Morgan took me
11 to see the new tennis facility in Indian Wells. With a
12 grant from the Board and the help of our dedicated staff,
13 they had developed a great recycling plan there. They
14 have everything from starch-based biodegradable silverware
15 to containers for trash, recyclables and food waste, with
16 the food waste and their green waste being sent to a
17 compost facility. It was an inspiration to see how local
18 government, business, and our Board all worked together to
19 make zero waste a reality. And I would love to see us do
20 more of this hands-on partnering.

21 And thank you, Pat and Cara and your staff, for a
22 great job.

23 April 1st, I met with Lynn France and Michael
24 Meacham regarding the waste management and recycling
25 programs the City of Chula Vista has put into place. The

1 City of Chula Vista is minutes from the Mexican border and
2 is the fastest growing community in the United States.
3 And their diversion rate is 53 percent.

4 They have a great information and education
5 program in two languages. They have recycling rangers
6 that actually go out and check to make sure people are
7 using their blue recycling bins properly. They're given
8 citations and written up if they're not. They have a C&D
9 ordinance. And they have taken it upon themselves to
10 produce a waste and recycling guide for builders, which
11 gives the specifications builders are to follow for
12 housing developments, apartment, and condominium complexes
13 when it comes to designing the space that is needed for
14 the waste and recycling containers.

15 They have a franchise agreement with one hauler.
16 So the whole city is -- everyone -- everything is uniform
17 and everyone knows what's expected of them. Their
18 citizens are given two free passes a year to the dump.
19 And they have free pick up of bulky items.

20 Chula Vista takes its waste and recycling efforts
21 very seriously and has the full support of their city
22 council, and they are truly a model community.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
24 Peace, and thank you for that report. That's good to hear
25 when we have some model communities like that. And Chula

1 Vista certainly has some special challenges. And it's
2 wonderful they can do that.

3 Mr. Washington, do you have any ex partes?

4 BOARD MEMBER WASHINGTON: No, Madam Chair. I'm
5 up to date.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr.
7 Paparian.

8 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
9 Just a few things to report on.

10 The Board had its annual used oil and -- actually
11 it's not annual anymore -- the Used Oil and HHW Training
12 and Conference here in Sacramento on March 24th. This was
13 cosponsored with the Department of Toxic Substances
14 Control.

15 I gave some remarks about E-waste. But I wanted
16 to say I was very impressed with the conference, with the
17 level of participation, with the type of information that
18 was put together. And I think that our staff, Jim Lee,
19 Kristin Yee, and Matt McCarron, deserve some special
20 thanks for putting together a really fabulous conference
21 on HHW and used oil.

22 On March 25th, Madam Chair, you and I both were
23 at the RMDZ Zone Administrators Training Workshop in Santa
24 Monica. And I also am very impressed with the caliber of
25 our zone administrators and their, you know, anxiousness

1 to do good work in helping out the recycling businesses
2 around the state.

3 I was also in Los Angeles on April 1st attending
4 a meeting of the Environmental Law Symposium of the L.A.
5 County Bar Association, again speaking about E-waste.

6 And then, finally, I attended the April 2nd
7 stakeholders meeting on the draft regulations for SB 20,
8 which we'll be talking about later today.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
10 Paparian.

11 And, Mr. Washington, before we begin with your
12 report, I just want to thank you as a citizen of
13 California and a resident of southern California for all
14 the work you've been doing on the very important
15 gang-related shootings, an unfortunate crisis right now in
16 southern California. And I know, from watching the news
17 and from reading in the L.A. Times, you've been
18 instrumental. And I want to thank you very much.

19 BOARD MEMBER WASHINGTON: Thank you.

20 CHAIRPERSON MOULTON-PATTERSON: That's very, very
21 important.

22 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.
23 And it's always a tough job trying to stop the -- it's one
24 thing if they're just shooting. But they're actually
25 killing people. And it's almost like a mini Iraq down in

1 southern California in the Watts-Compton neighborhood, the
2 areas that I represented in the State Legislature. And I
3 certainly appreciate the comments. And we would hope that
4 at some point we can really divert the violence that is
5 occurring. And it's not only in Los Angeles. All over
6 the country in urban communities violence is on the rise.
7 And something has to be done to stop the killings. And
8 they've made me again a famous man. I've been on the news
9 almost every day this week. And people across the country
10 are calling, trying to figure out what they can do to help
11 divert the violence that is occurring down there.

12 So I really do appreciate those comments.

13 And I don't have a report, Madam Chair, at this
14 time.

15 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you
16 very much.

17 I'll be very brief because we do have -- am I on
18 still? -- we do have two full days today. We have a large
19 agenda.

20 As Mr. Paparian said, I was honored to give the
21 keynote speech to the RMDZ Zone Works Conference. And I
22 again am so impressed with our staff and all the zone
23 administrators and what they're doing. It's a great
24 program and I'm just 100 percent behind it. And I think
25 they're doing great things. So thank you to all of those

1 of you that are involved on the staff and certainly to our
2 zone administrators throughout the state.

3 Also was able to do the grand opening, ribbon
4 cutting, switch clipping for Downtown Diversion aka Looney
5 Bins. And I did that along with Board Member Paparian and
6 Secretary Tannemin. And they have done an impressive job.
7 And I know you'd all be very proud with what they're
8 doing, right in the middle of downtown L.A.

9 Had a radio interview with a radio channel -- a
10 station that was on campus at California State at
11 Northridge about recycling in urban areas.

12 Also, attended a reception for former Secretary
13 Mary Nichols, who is now the Director of the UCLA
14 Institute for the Environment. So we're real excited
15 about that. And I know she's going to make a great
16 contribution there.

17 Also, I did want to -- one of the best things I
18 did this month was I attended our defensive driving
19 training. And I want to remind you that everyone who
20 drives a state car, and I know we have a lot of people
21 here that do, must have one of these, and you must
22 complete this every four years.

23 I learned a lot. You know, I had to kind of be
24 drug to the training. But I really enjoyed it once I was
25 there. And I learned that the state pays out millions and

1 millions of dollars in claims. And they really, really
2 told us what we should and should not do. And so I would
3 encourage anyone that has keys to a car in this
4 organization or drives a car to get one of these. It's
5 very important. And it's a big financial burden on the
6 state, the accident rates. So please take this seriously,
7 as I had to, and go to your defensive driving training.

8 And I'd like to now turn it over to Mr. Leary,
9 our Executive Director.

10 I think I neglected to ask that you please turn
11 off all cell phones and pagers.

12 And also for those of you who haven't been to one
13 of our Board meetings, we have speaker slips in the back
14 of the room. If you'll fill that out and note the item --
15 the number of the item on the speaker slip and give it to
16 Mrs. Waddell, who's right down here, she'll let us know.
17 Because we're glad to hear your comments.

18 Mr. Leary.

19 EXECUTIVE DIRECTOR LEARY: Thank you, Madam
20 Chair.

21 And thank you, members, for your positive
22 comments once again.

23 And thank you, Chair Moulton-Patterson, for your
24 friendly reminder about defensive driving.

25 I think from this point forward, following the

1 Chula Vista model, I will refer to Board staff as the
2 Board's recycling rangers, if that's okay with the
3 members.

4 (Laughter.)

5 EXECUTIVE DIRECTOR LEARY: Anyway, to begin with
6 I have a couple of items I'd like to report under our
7 regulations and the permit waivers.

8 First, the operator of the Paso Robles landfill
9 has requested, and the LEA has approved, an extension of
10 the emergency waiver initially granted in December, which
11 allows additional tonnage and extended hours of operation
12 to accommodate debris resulting from the San Simeon
13 earthquake. This extends the waiver until June 28th,
14 2004.

15 Reporting for the first 90 days of the waiver
16 indicate that 36 percent of the 688 tons of
17 earthquake-related debris has been diverted for reuse and
18 recycling.

19 Second, our Shasta County LEA has issued an
20 emergency waiver through a stipulated agreement with the
21 operator of the Anderson landfill, which is Waste
22 Management, allowing a temporary height increase until May
23 12th, 2004, with the possibility of an extension, but not
24 beyond August 30th of this year.

25 And the necessity of this agreement arises from

1 the wet weather related delays in installing a new liner
2 in the southwest canyon. Construction was hauled due to
3 the early onset of the rainy season. And the site will
4 run out of available airspace, consequently violating its
5 existing height limit, before construction can be
6 completed.

7 Once the liner construction is completed, waste
8 placed above the permitted high limit will be removed to
9 another unit within the permitted site.

10 In other positive news about former disposal
11 areas, I am pleased to report that, as requested by the
12 Board members several months ago, construction of a fully
13 compliant landfill gas monitoring probe system at the
14 abandoned Yuba-Sutter Disposal Area site in Marysville has
15 been completed. Fortunately, landfill gas concentrations
16 at all five probes were found below explosive levels.

17 You may recall that this site was basically an
18 open dump shut down under an enforcement action by the
19 regional board and the LEA in 1996, and subsequently
20 abandoned by the operator. The Board took control of the
21 limited funds in the site's closure fund and, using our
22 contractors, very creatively implemented a partial closure
23 project, capping part of the site and stabilizing the
24 remaining portions of the site with funds that the Board
25 allocated from the Solid Waste Cleanup Account.

1 The project was completed shortly before the
2 disastrous floods of early 1997 and we were very fortunate
3 to have the project completed.

4 This was the first and, so far, the only landfill
5 in the state where we've had to take control of the
6 closure funds and use those funds to close a site.
7 Additional closure funds are in place for limited
8 maintenance work, but overall the site's in pretty good
9 condition.

10 The Board's contractor, Ninyo and Moore,
11 completed the construction work under oversight by the P&E
12 Division's closed, illegal, and abandoned site program.
13 Abel Martinez of the program deserves tremendous credit
14 for a job well done.

15 In January of last year staff provided the Board
16 with the results of an assessment of the administration of
17 all of our grant programs. Two short-term actions were
18 recommended to address findings identified in the
19 assessment. One was to establish a Grant Executive
20 Oversight Committee, chaired by Julie Nauman, to provide
21 consistent grant oversight, focus and accountability. The
22 second was to ensure that the grant policies, procedures
23 and process were consistent, accurate and readily
24 accessible to staff.

25 Once the Committee was established they directed

1 the formation of a cross divisional team led by Rubia
2 Packard of the Policy Office to take on the task of
3 documenting all of the existing grant-related policies and
4 procedures, analyzing them to identify gaps and
5 inconsistencies, and then developing recommendations for
6 organizing, accessing and maintaining all of these
7 policies and procedures.

8 The team members included Susan Johns, who has
9 since retired, Roger Ikemoto, West Mindermann, Shirley
10 Willd-Wagner, Kelly Tyack, Judy Friedman, Don Peri,
11 Sheridan Merritt, Marie Carter, Donna Hogan, Bonnie
12 Cornwall and Mercy Caputi.

13 Over the last year this team has met many times,
14 reviewed countless pages of grant policies and procedures,
15 identified areas needing policy and procedural decisions,
16 clarified and documented procedures for all phases of our
17 grant programs, and ultimately have produced detailed
18 matrices that are accurate, current and complete.

19 These matrices will form the bases of an on-line
20 tool as part of an enhanced Grants Boardnet website to
21 provide procedural and policy guidance to all our staff.
22 Our information management staff has drafted the first two
23 sections of the six grant phases that will be included in
24 the web tool. We hope to have the tool up and running for
25 all staff by the end of the summer.

1 I go into all this detail and provide you this
2 background today for two reasons:

3 First and foremost, I'd like to recognize and
4 commend this cross divisional team for their many hours of
5 hard work and dedication to the tasks that they were
6 given, and to congratulate them for a job well done.

7 Secondly, I'd like to give you a heads up, that
8 you'll be hearing a couple of agenda items in the coming
9 months on the policy and procedure issues that were
10 identified by the team and need Board discussion and
11 decisions over the next couple of months.

12 As you probably know, the California Department
13 of Food and Ag is the lead agency -- this is probably a
14 good item to discuss early in the morning rather than
15 right before lunch. And you'll understand why here in a
16 second.

17 The California Department of Food and Ag is the
18 lead agency for regulating the transportation and disposal
19 of dead livestock and poultry, scraps from food producing
20 and selling facilities, and animals that die of contagious
21 diseases. The Department has approached the Board wishing
22 to enter into an MOU with the Board regarding future
23 research on the disposal of animal mortalities. I believe
24 it is a worthy endeavor for both of our agencies.

25 The Department believes that it's possible in the

1 event of an emergency animal disease or other emergency
2 affecting animals the number of animal mortalities
3 requiring disposal could exceed the capacity of our
4 existing disposal methods, and that composting some of
5 these materials may be possible in a manner that is still
6 protective of the public health and the environment.

7 They want to coordinate with the Board on
8 potential composting research projects in order to examine
9 this belief and to determine what standards would be
10 necessary for this type of composting.

11 Currently the Board's composting regulations
12 prohibit the composting of unprocessed mammalian, but
13 staff agree that this type of research would be useful in
14 determining whether or not the provisions of our
15 regulations need to be revised. Given the existing
16 prohibition in our regulations, staff believes an
17 agreement with the Department that establishes parameters
18 for coordinating any such research is warranted.

19 Through the MOU, the Board and the Department
20 will agree to collect, exchange, and disseminate
21 information on research; to consult with each other in
22 developing standards and protocols and procedures relative
23 to compost research projects; and to consult with each
24 other in developing or revising statutes and regulations
25 relative to the disposal and handling of animal carcasses.

1 We are not requesting or do not anticipate
2 requesting any Board funding for any part of this
3 agreement.

4 And, finally, it's with great pleasure that I
5 announce the appointment of Jon Myers as our new Assistant
6 Director for Public Affairs. Jon comes to us directly
7 from the horseshoe, where he served as the Governor's
8 Deputy Director for Constituent Affairs.

9 Jon has extensive background in local government,
10 public policy, and public affairs. He gained his local
11 government experience in southern California, where he
12 served both the mayor of the City of San Diego and the
13 Chairman of the San Diego County Board of Supervisors.

14 Jon later worked in the private sector, serving
15 as the Director of Public Affairs at Public Solutions, and
16 as Vice President of Governmental Affairs at the Flannery
17 Group.

18 Perhaps most importantly, Jon expressed a great
19 interest in working for the Board, and he joins us in
20 continuing to spread the "Zero Waste -- You Make It
21 Happen" message.

22 Please join me in welcoming Jon and assisting him
23 in any way possible as he assumes his new
24 responsibilities.

25 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

1 Welcome, Jon. We're really glad to have you.

2 And I think you'll really like it here. We're anxious to
3 work with you.

4 And did that conclude your report?

5 EXECUTIVE DIRECTOR LEARY: That concludes my
6 report.

7 Thank you, Madam Chair.

8 CHAIRPERSON MOULTON-PATTERSON: Any questions for
9 Mr. Leary?

10 Ms. Peace.

11 BOARD MEMBER PEACE: I'd just like to say, now
12 that I've been here a year, I've had many conversations
13 with staff on a number of issues. And it's become evident
14 to me that staff spends way too much time on
15 administrative and paperwork efforts and not enough on
16 program or policy issues that could really help
17 California's diversion rate.

18 No, we have an excellent staff with great ideas.
19 I know staff have already received an E-mail talking about
20 a suggestion box, but I wanted to mention it in public.
21 With the Chair's blessing, my Paparian and I are
22 soliciting from all our staff ideas on how to streamline
23 their work, make improvements to their programs, or
24 anything else they think the Board should do differently.

25 At the same time I would like to see the deputy

1 directors do their version of that exercise, making the
2 recommendations to you, Mark, on how we should spend our
3 resources or do business differently.

4 Deputy directors, I want to know what you would
5 like to cut back on, do more of, where you'd like to head,
6 your vision of how your divisions could best fulfill the
7 mission of the Board.

8 Ultimately we'll have a discussion on how to
9 approach making those changes. But in the meanwhile I
10 wanted to encourage everyone who has an idea to
11 contribute. As soon as we have the web-based suggestion
12 box in place, we'll come up with some time lines for
13 getting us your input. And of course all of you -- I hope
14 all of you know my door's always open if you want to ever
15 come talk to me.

16 You know, I've been frustrated with the programs
17 and policies after being here only a year. So I can only
18 imagine the good ideas everybody has stored up over the
19 time. And I do want to hear them.

20 Another thing, I would also like to welcome Jon
21 Myers to our Public Affairs Office. I'm looking forward
22 to working with you. And I do just want to remind you of
23 the fantastic resources you have available to you,
24 specifically Frank Simpson who has done an admirable job
25 for us.

1 And thank you.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,
3 Ms. Peace.

4 And, you know, I certainly concur that we're
5 always looking for ways to work more efficiently and more
6 hands-on. And as I have said for the last five years, we
7 have the best staff anywhere in state government. And I
8 mean that sincerely. And we welcome your ideas. And
9 we're always looking at ways to be more effective and more
10 efficient. And, you know, our job here is to serve the
11 public and local jurisdictions.

12 So thank you. And I know Mr. Paparian's and Mr.
13 Washington's doors are always open, as mine is, always
14 looking for your suggestions. And so please let us know.
15 Because we know we have a very, very talented staff.

16 With that, let's get right on to our Board
17 agenda.

18 Item No. 19 will be continued to the May board
19 meeting. Item 16 has been pulled. Items 1, 2, 5, 6, and
20 18 are on the proposed consent agenda. Items 3, 4, 7
21 through 17, and 20 through 25 will be heard by the full
22 Board.

23 As far as a time certain today, we will hear Item
24 No. 10 at 1:30, right after lunch.

25 It's my intention -- the agenda was a little

1 different this month, you know, with all the changes and
2 everything. You know, on a two-day Board meeting I do
3 like for the public to know exactly what's going to be on
4 one day and exactly what's going to be on the next day so
5 people don't have to come up here for two days.

6 That wasn't really spelled out in the agenda this
7 month, but we will be doing that in the future again.

8 But it's my intention today to do -- to cover 1
9 through 14, and then tomorrow we will do the remainder of
10 the agenda. So people that are here can plan on what time
11 to be here and so forth. And we'll try an really keep to
12 this.

13 There will be a closed session to discuss
14 personnel issues pursuant to Government Code 11126(a)(1).
15 And with the concurrence of my colleagues, I propose that
16 we do that -- the closed session at the end of the day.
17 Since we do have a luncheon for Mr. Jones today with the
18 Board and then we have a 1:30 time certain, I think if
19 that's okay with Board members, we will have it at the
20 adjournment of the items that I mentioned today.

21 CHIEF COUNSEL CARTER: Excuse me, Madam Chair?

22 CHAIRPERSON MOULTON-PATTERSON: Yes, Ms. Carter.

23 CHIEF COUNSEL CARTER: Marie Carter, Chief
24 Counsel.

25 We also have two items that will come under

1 pending litigation.

2 CHAIRPERSON MOULTON-PATTERSON: Oh, okay. Thank
3 you.

4 And litigation matters are Government Code
5 11126(e). Sorry I neglected to mention that.

6 Okay. The items that are proposed for the
7 consent agenda again are 1, 2, 5, 6, and 18.

8 Would any Board member wish to pull or discuss
9 any of these items?

10 Ms. Peace.

11 BOARD MEMBER PEACE: No, I'm okay with putting
12 No. 1 on consent. But I wanted to make sure that staff
13 will bring the Acuity Brands, Incorporated, forward in the
14 next round -- in the next round of certifications, as they
15 recommended.

16 DEPUTY DIRECTOR WOHL: Yes, definitely.

17 BOARD MEMBER PEACE: Okay. Thank you.

18 CHAIRPERSON MOULTON-PATTERSON: With that, do I
19 have a motion for the consent -- proposed consent
20 calendar?

21 BOARD MEMBER PEACE: I'll make a motion to move
22 the consent items as read.

23 BOARD MEMBER PAPARIAN: Second.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
25 motion by Ms. Peace, seconded by Mr. Paparian, to approve

1 Items 1, 2, 5, 6, and 18 on consent.

2 Please call the roll.

3 SECRETARY WADDELL: Paparian?

4 BOARD MEMBER PAPARIAN: Aye.

5 SECRETARY WADDELL: Peace?

6 BOARD MEMBER PEACE: Aye.

7 SECRETARY WADDELL: Washington?

8 BOARD MEMBER WASHINGTON: Aye.

9 SECRETARY WADDELL: Moulton-Patterson?

10 CHAIRPERSON MOULTON-PATTERSON: Aye.

11 Okay. That brings us to Item No. 3.

12 DEPUTY DIRECTOR WOHL: Good morning, Madam Chair.

13 CHAIRPERSON MOULTON-PATTERSON: Ms. Wohl.

14 DEPUTY DIRECTOR WOHL: Patty Wohl with the Waste
15 Prevention and Market Development Division.

16 Agenda Item 3 is consideration of options for
17 modifying requirements for calculating the Rigid Plastic
18 Packaging Container All-Container and Polyethylene
19 Terephthalate recycling rates.

20 And Michael Leason and Sue Ingle will present.

21 MR. LEASON: Thank you, Patty.

22 Good morning, Madam Chair and Board members.

23 Just a brief introductory statement before I turn
24 it over to staff. I wanted to provide you with some
25 background on this item.

1 The item was originally heard at the Board's
2 January 2004 meeting. The issue before the Board, both in
3 January and today, is dealing with the fact that the
4 existing methodology for calculating the rigid plastic
5 packaging containers All-container rate and PET recycling
6 rate is no longer usable and what action the Board should
7 take in response to this situation.

8 At its January meeting the Board deferred action
9 and directed staff to hold a workshop with stakeholders to
10 discuss which options, specifically whether the recycling
11 rate should be repealed or a new methodology be developed,
12 and make the appropriate recommendation to the Board.

13 (Thereupon an overhead presentation was
14 Presented as follows.)

15 MR. LEAON: The crux of the matter, that staff is
16 unable to calculate the recycling rates using the existing
17 methodology by the annual June deadline established by the
18 Board, has not changed since the January board meeting.
19 This June deadline was set by the Board in response to
20 industry's request that they be given six months notice
21 that the recycling rates failed to meet their specified
22 threshold values of 25 and 55 percent respectively, and
23 that as a result the Board may at its discretion verify
24 compliance through a certification process.

25 BOARD MEMBER PAPARIAN: I'm not sure if it's the

1 microphone, but I'm having a little trouble hearing.

2 MR. LEAON: Oh, I'm sorry.

3 CHAIRPERSON MOULTON-PATTERSON: Let's see. Try
4 it.

5 MR. LEAON: Let's see. Is that better?

6 CHAIRPERSON MOULTON-PATTERSON: Okay. That's
7 much better. Thank you.

8 MR. LEAON: Okay. I apologize.

9 The specific problem is that the data sources
10 that staff rely upon are either no longer published or are
11 not published in a format or a timeframe necessary for
12 calculating recycling rates by the June deadline.

13 Staff's presentation will detail the reasons for
14 this and list options, which were discussed at the
15 workshop, and evaluated using criteria developed by staff
16 for addressing that situation.

17 And with that I would like to turn it over to Sue
18 Ingle for presentation.

19 MS. INGLE: Thank you, Mike.

20 Good morning. My name is Sue Ingle, and I'll be
21 presenting Item No. 3 before you.

22 Give you a little background. In January staff
23 came to the Board asking to adopt our staff
24 recommendations of removing the RPPC recycling rates from
25 the current RPPC law. At the January 2004 meeting, the

1 Board requested staff to hold a workshop within 30 days to
2 obtain more stakeholder input. This is our report back to
3 the Board on the workshop and staff's evaluation of the
4 recommendations for calculating the RPPC recycling rates.

5 --o0o--

6 MS. INGLE: Before we go over the staff options
7 I'd like to do a little review of some of the RPPC
8 criteria.

9 First, the definition of an RPPC container is one
10 that is all of the following: It's made entirely of
11 plastic. It's relatively inflexible and capable of
12 maintaining its shape. And it's between eight ounces and
13 five gallons.

14 --o0o--

15 MS. INGLE: RPPC containers are divided into two
16 groups. We have the regulated containers and then we have
17 the exempted containers.

18 Regulated containers are those that hold products
19 such as soaps, detergents, oil, gas additives,
20 electronics, and other things.

21 Exempted or your nonregulated containers are
22 those that hold products such as soda, wine, beer, food,
23 cosmetics, and hazardous materials.

24 The nonregulated containers are statutorily
25 exempt from the RPPC requirements as of 1993. The

1 recycling rate calculation though includes both regulated
2 and the nonregulated containers even though the exempted
3 containers are not being recycled at the same rate as
4 those that have a deposit attached to them.

5 --o0o--

6 MS. INGLE: Regulated companies have several
7 methods to show annual compliance with the RPPC law.
8 These methods include having a recycling rate of 25
9 percent for the all-container rate or having a 55 percent
10 rate for the PET containers, use of 25 percent
11 post-consumer resin in new containers, or show 10 percent
12 source reduction or meet one of the other criteria for
13 reuse or refill.

14 The focus of today's agenda item is on the first
15 and second methods of compliance.

16 --o0o--

17 MS. INGLE: Why is the existing methodology no
18 longer feasible?

19 The methodology has changed and does not
20 accurately reflect California's recycling rate. For
21 instance, by combining Canada and U.S. resin sales data,
22 this assumes there is no difference in population and
23 people's consumption of beverages in colder regions versus
24 warmer climates. Not only is the data not published in a
25 usable format, but it is also needed by April each year

1 for us to publish a rate in July.

2 --o0o--

3 MS. INGLE: So staff held a workshop for the
4 plastic interested parties at the Cal EPA on February 5th.
5 And thank you, Mr. Paparian, for attending our workshop.
6 Our objective was to present the methodology issues,
7 limitations, and discuss solutions. We received
8 suggestions and feedback on alternative methodologies from
9 the approximately 30 stakeholders that attended.

10 There was a pretty good mix of industry and
11 recycling community members present at the workshop.

12 --o0o--

13 MS. INGLE: The workshop focused on staff's
14 criteria and developing methodology that most closely met
15 this criteria. For staff to calculate accurate and timely
16 recycling rates we need data that meets the following:

17 Data that's specifically to California. It must
18 be accurate and transparent so it can be independently
19 verifiable. It needs to reflect recycling of regulated
20 containers. And it needs to be reasonable in cost.

21 --o0o--

22 MS. INGLE: The attending stakeholders were asked
23 to vote on three options: 1) To remove the recycling
24 rates as compliance options; to adopt a methodology
25 similar to how Oregon calculates their RPPC recycling

1 rates; or to come up with other suggestions. The results
2 are shown on this slide. Stakeholders suggested other
3 methodologies such as disposal base calculation or
4 calculating an all-plastic recycling rate or imposing a
5 landfill ban on RPPC's.

6 Not all suggestions from the workshop were
7 included as options in this agenda item.

8 --o0o--

9 MS. INGLE: The options that resulted from the
10 workshop were rated side by side using the methodology
11 criteria as shown in this slide. In the event the
12 recycling rates are below the statutory level, Option 2
13 and 4 may require annual certifications. That's why they
14 have a "maybe."

15 --o0o--

16 MS. INGLE: Now I'd like to present each option
17 starting with our staff recommendation of Option 1.

18 We are presenting each option with pros and cons.
19 Option 1 is the most cost effective and resource effective
20 for staff. It's supported by the recycling community and
21 does not rely on data collection. This option supports
22 the intent of the RPPC law.

23 On the other side, this option requires statutory
24 changes to the existing law. It eliminates the recycling
25 rates as compliance option for industry. And it's not

1 supported by industry because of the possibility of annual
2 certifications.

3 --o0o--

4 MS. INGLE: Option 2 recommends adopting a
5 methodology similar to how Oregon calculates their
6 recycling rates. This option would not require statutory
7 change, but would -- and would provide a historical
8 recycling measurement. It is also supported by industry.

9 On the other side, this option is very costly and
10 staff intensive.

11 We feel it does not measure the effectiveness --
12 we feel it does not measure the effectiveness of the RPPC
13 law because the beverage containers are recycled at a much
14 higher rate than the regulated RPPC's. And the recycling
15 community does not support this option.

16 --o0o--

17 MS. INGLE: Option 3 recommends adopting a
18 methodology similar to Oregon's, but would calculate the
19 all-container and PET recycling rates for regulated
20 containers only, which are these containers over to the
21 left.

22 Okay. This option would provide recycling rates
23 that measure the effectiveness of the RPPC law and provide
24 a historical recycling tool.

25 But on the other side, this option is very costly

1 and staff intensive and it would require statutory change.

2 --o0o--

3 MS. INGLE: Option 4 recommends calculating the
4 rates using a disposal-based methodology similar to the
5 calculations used by local jurisdictions.

6 This option would use California data, but has
7 several issues when rated by our criteria. For one thing
8 it would be very costly and staff intensive. It would
9 require statutory change to develop a base year comparison
10 for determining diversion.

11 We feel this option is not as precise as the
12 other options and does not necessarily measure the
13 effectiveness of the RPPC law.

14 --o0o--

15 MS. INGLE: Finally, each option was analyzed by
16 cost and the task.

17 Option 1 would not require additional staff, nor
18 a processor survey, nor a waste characterization or
19 recycling survey.

20 Option 2 and 3 are very expensive because they
21 require California data collection task. These costs are
22 estimates and actually could cost more particularly if the
23 services for the studies were contracted out.

24 --o0o--

25 MS. INGLE: In conclusion, staff cannot

1 accurately calculate the recycling rates in the required
2 time needed for industry. And based on the criteria
3 developed by staff, we recommend the Board adopt Option 1
4 and support current legislation to eliminate the
5 all-container and PET recycling rates from the RPPC law.

6 Thank you. This concludes my presentation.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you very
8 much.

9 Before we go to public speakers, does the Board
10 have any questions?

11 Mr. Washington.

12 BOARD MEMBER WASHINGTON: Yeah, thank you, Madam
13 Chair.

14 There's a letter from Livingston and Mattesich, I
15 believe, from Randy Pollack. And in that letter -- maybe
16 you could just answer -- his final comments is "Before
17 changing the statute of the RPPC programs can be
18 justified, an overall evaluation of the RPPC program needs
19 to be conducted."

20 Have we done a -- have we conducted an evaluation
21 of the RPPC?

22 MR. ORR: Mr. Washington, this is Bill Orr with
23 the Recycling Technologies Branch.

24 I think we have done a couple of different
25 evaluations of the RPPC law. One of them was in the

1 context of the plastics white paper that the Board adopted
2 last June. And as part of the recommendations that the
3 Board adopted, in looking at the RPPC law on a general
4 level, the recommendation was to pursue something better
5 than the current law in place of that. So at the highest
6 level we've already done that.

7 We've also evaluated how to make the program more
8 efficient and more effective, and actually just mailed out
9 a new certification this last week. And in that process,
10 we did do a lot of evaluation on how to make it easier for
11 the companies to submit their certifications and also make
12 it more efficient for staff to process those.

13 So those are just two examples of the kind of
14 evaluations that we have done. We'd be glad to summarize
15 them in some other form to look at some of the other
16 issues.

17 BOARD MEMBER WASHINGTON: No. And I appreciate
18 that. Thank you very much.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
20 Washington.

21 Any other questions?

22 Okay. We have three people that have requested
23 to speak.

24 Johnnie P. Carson II, CAW.

25 Mr. Carson:

1 MR. CARSON: Yes. Thank you very much.

2 First, CAW would like to express its strong
3 support for Option 1, which is to remove the 25 percent
4 calculation from the RPPC Act. We feel that in addition
5 to what staff has pointed out, there are several
6 substantive reasons to make this decision.

7 Right now 25 percent recycling rate represents a
8 failure for the state. The waste diversion goal for the
9 state is set at 50 percent. And if we allow plastics to
10 just achieve 25 percent, we're creating a situation where
11 the rest of materials in the waste stream have to actually
12 subsidize what plastics aren't doing.

13 The 48 percent of the containers that are being
14 recycled right now under the RPPC Act's recycling rate are
15 actually bottle bill containers, CRV plastics, which are
16 creating this rate inflation, so to speak.

17 The original intent of the RPPC Act was to
18 stimulate demand for post-consumer content and to
19 stimulate recycling here in this state. With the 25
20 percent recycling rate, industry's let off the hook and a
21 lot of times no one's using the post-consumer content. So
22 the recycling that's being done here in the state is not
23 finding the marketplace it needs, not finding the
24 marketplace it needs with the hundreds of different
25 fabricators here in this state.

1 And the problem that started all this was the
2 data, the data that industry's had the last 90 days to
3 come forward and suggest new ways of collecting or new
4 ways of providing that information. But they've done very
5 little more than just simply complain about the act. What
6 we'd like to see is have them put up more information and
7 more data in that period. And that just never happened.

8 I think it's important as we look at this act and
9 we talk about possible reform of the act long term or
10 coming up with a better idea on what to do on plastics,
11 that doing this initial 25 percent removal of the
12 recycling rate will stimulate that discussion and
13 stimulate the policy process to look for alternatives to
14 this act. I know that there's been a lot of comment from
15 staff on the white paper process. There are complications
16 with it. There are difficulties with it. And when you
17 look at plastics, it's really a difficult area to deal
18 with in the waste stream.

19 But I think tackling this one issue, taking the
20 25 percent compliance rate out of the act, will allow the
21 act a last chance. Can it succeed? Can it stimulate the
22 markets that we need for recycled content? Can it
23 stimulate the recycling industries we have here in this
24 state?

25 Thank you very much.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
2 Carson.

3 Randy Pollack, Soap and Detergent Association.

4 MR. POLLACK: Thank you, Madam Chair, members of
5 the Board. Randy Pollack on behalf of the Soap and
6 Detergent Association.

7 I'm here in strong opposition to the staff
8 recommendation of Option 1. One thing which Member
9 Washington alluded to is our concern that an evaluation of
10 this program has not been conducted.

11 I represent companies who are in compliance with
12 this law. However, it does cost us somewhere between
13 50,000 to 200,000 to demonstrate our compliance. And why
14 is that so?

15 Many companies will have 40, 50, 60, or 70
16 product lines. For each of those product lines we'd have
17 to identify the container. We have to then go to the
18 filler who may be filling product for us, who then are
19 purchasing the containers from another company who may
20 have three other subs who they purchase their containers
21 for. So when you look at this, you're talking about
22 hundreds of pages of documents that we have to gather.

23 And what we're seeing by adopting Option 1 is
24 that every year companies would be under some sort of
25 obligation. We aren't quite sure which companies, but

1 there are going to be a series of companies who are going
2 to have to provide all this information to the Board. And
3 then there's no benchmark. This continues on without ever
4 measuring the effectiveness of this program.

5 Additionally, we also have to look at how does
6 this affect small companies? I represent very -- several
7 small companies. If you have a company of nine employees
8 and you get one of these letters in the mail, now you're
9 just in business just trying to make ends meet. You don't
10 know about your containers. You purchase maybe 4,000
11 containers, which are products. But you are obligated to
12 try and unwrap all of this information to get it back to
13 the Waste Board to respond.

14 And I can tell you from firsthand experience, I
15 spent over the last month trying to get information for a
16 small company. They said, "Randy, you go ahead, take care
17 of this." I've talked with their supplier, who then has
18 referred me over to three other container manufacturers.

19 And in many instances what has happened, as in
20 the past, is that sometimes these companies today don't
21 have the relationships with these companies of where we're
22 looking at the period of time, for example, 2002. So it's
23 very difficult to get information from a container
24 manufacturer that no longer has relations with the
25 business today.

1 We believe that it's very important to have the
2 Board look at the costs involved to businesses. I mean
3 that is a fundamental part of the Governor's agenda today,
4 is to look at the jobs and the costs to business. For
5 example, there was one company that came before this Board
6 that spent \$25,000 on a test, additional money preparing
7 paperwork, to demonstrate to the Board what they already
8 knew, that they could not put their product into a
9 container that had PCR. And this was all over 80 pounds
10 of plastic that was entering in California.

11 So what we believe that is very important is
12 that -- many people don't know about this law. We would
13 like to see the staff become more active in participating
14 in providing education out to companies, sitting down and
15 looking to see what parts of the programs are working.
16 Are all the large companies in compliance? Are the small
17 companies that maybe aren't working or don't have the
18 information? And going along that sort of process, where
19 we actually try to identify what we have learned through
20 the thousands of certifications that have been submitted
21 to this board. Let's review that information, let's
22 analyze it.

23 To say that we have just streamlined it, that
24 we've improved the forms to folks from our industry, we
25 don't think that's enough. Because right now is we're in

1 a position that we don't have information about how to
2 establish the overall recycling rate. That's not our
3 business. However, we are going to be penalized for that,
4 where we are going to have a series of companies every
5 year who have to -- are going to undergo the certification
6 process.

7 Thank you very much.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you.

9 Tim Shestek, American Chemistry Council.

10 Good morning.

11 MR. SHESTEK: Good morning. Thank you, Madam
12 Chair and members. Again, Tim Shestek with the American
13 Chemistry Council.

14 I'd like to just take a brief moment to offer a
15 few comments relative to this particular agenda item and
16 the overall RPPC program in general.

17 The staff agenda item that was presented in its
18 written format talks about increasing landfill diversion
19 of RPPC's and supporting markets for recycled content feed
20 stock should be the primary goal of this particular
21 program. Well, I would say we agree with that. And we
22 think there's a lot of opportunities for industry,
23 consumers, local governments, the recycling community,
24 environmental organizations to work toward that goal.

25 Our opinion is that instead of focusing or

1 refocusing the effort of the RPPC program, which this
2 agenda item might do toward enforcement and compliance,
3 instead really direct staff and financial resources of
4 this Board and this Agency really away from the tedious
5 exercise of certifying compliance with product
6 manufacturers around the country and instead really
7 focuses its attention on facilitating the recycling and
8 diversion of a variety of plastic products, not just
9 RPPC's. Interestingly enough, a lot of activity in terms
10 of this partnership and a collaborative fashion, which I
11 think was spawned by the Board's efforts and staff's
12 willingness to craft a collaborative environment in which
13 all stakeholders can participate in, a lot of that
14 activity is already happening. Just a couple of examples:
15 Our organization, other plastics industry trade
16 organizations, and a variety of Cal EPA boards and
17 departments are already working on a public/private
18 partnership to address resin pellet containment loss.
19 We're excited about this opportunity. It's an educational
20 effort focused on the plastics industry best management
21 practices to ensure that pellet loss is kept to a minimum.
22 This type of activity is being done in this collaborative
23 fashion that is economically sustainable and
24 environmentally responsible. That's the focus we think
25 the Board needs to be looking on.

1 Secondly, we've been working for the past several
2 months to craft a program in order to help facilitate the
3 recycling and diversion of plastic film products, grocery
4 bags, shrink wrap, what have you. This is an exciting
5 opportunity we think that consumers, businesses, and local
6 governments are going to be taking advantage of to help
7 divert a significant amount of material from landfill
8 diversion. Here's another opportunity where the Board,
9 various Cal EPA agencies, and industry can really work
10 together in a fashion that is not -- doesn't penalize
11 industry and doesn't really cost the state any additional
12 resources but rather a refocus of existing resources.

13 Thirdly, I just wanted to point out that in terms
14 of market development, container manufacturers'
15 involvement, container design for recyclability, a great
16 deal of activity is already happening in that area. The
17 Association of Post-consumer Plastics Recyclers, who have
18 been involved, I would say, on the periphery for the last
19 several years, already are in the -- or already, I should
20 say, working on programs to facilitate the design for
21 recycling, increase the use of post-consumer material and
22 containers. And we would encourage the Board to really
23 bring that organization and its what they call their
24 champions-for-change program into the mix and into the
25 discussion, so to figure out ways in which we could

1 collaboratively work toward increasing diversion and
2 increasing the use of post-consumer material.

3 There is a whole lot of work to be done, without
4 a doubt. And what's interesting -- I read with interest
5 this past Sunday in the Sacramento Bee where there was a
6 discussion about the state's efforts to promote recycling
7 and promote market development for material. The article
8 interesting enough pointed out that CalTrans is not using
9 recycled content products which are available for road
10 reflectors. They have shunned that in use of a ceramic
11 product that's being imported from China, when recycled
12 content products here in the United States, here locally
13 in the Sacramento Valley are available and, according to
14 the article, at a lower cost and are performing in a
15 higher fashion.

16 So it's interesting enough. We have a lot of
17 work to do, I think. And we want to be a part of that
18 discussion. However, we feel that just by eliminating
19 this recycling rate, this burden shifts to more of a
20 compliance and certification effort really on businesses,
21 as Randy pointed out. And we would like the opportunity
22 to work again in a more collaborative fashion, which we
23 think that road is -- we're already down that road and
24 we'll look to continue to do that.

25 And I appreciate the opportunity to make some

1 comments today. Thanks.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you
3 very much. And I appreciate all the speakers' comments on
4 this difficult issue.

5 Mr. Paparian.

6 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam
7 Chair.

8 As I recall the history of this item, this came
9 before us in January, I believe. And we asked the -- I'm
10 sorry.

11 CHAIRPERSON MOULTON-PATTERSON: I'm sorry. No,
12 it's okay.

13 I'm sorry. I didn't see your light, Mr.
14 Washington. I'll call on you next.

15 Sorry.

16 BOARD MEMBER PAPARIAN: The staff made some
17 proposals in January. And we asked the staff to go back
18 and hold a workshop to further, you know, solicit input
19 from the stakeholders and assure that the recommendations
20 that they're putting forward to us are the best -- based
21 on the best information that they could gather. They did
22 that. And I attended that workshop. I think there was
23 some very, very good comments, very, very good input on
24 that.

25 But I think we are in a situation where we're

1 struggling to implement the mandates of the Legislature.
2 And what the staff is proposing in this item is to put
3 forward some proposals that would through legislative
4 changes make the program easier to administer and easier
5 to implement and presumably easier to facilitate the use
6 of recycled content plastic into new products.

7 Some of the issues that have come up are good
8 suggestions. You know, working with CalTrans to increase
9 their use of recycled content products is something that
10 affects not only the plastics areas, but the tire area as
11 well and other areas too. It's something that we really
12 need to do. I think there's other things we need to do as
13 well.

14 But we also need to recognize that we have been
15 working hard to accommodate some of the business concerns
16 that have come up. We just on the consent calendar this
17 morning approved a series of essentially exemptions from
18 the law that weren't required originally by the law. We
19 set up those exemptions as the Board. And those
20 exemptions include companies that have a small amount of
21 product. In one case a product -- a company had four and
22 a half tons of material. They got their exemption because
23 of being a small business. And a small business is
24 defined in our regulations, as I understand it, of being
25 under a hundred employees, which to some people that may

1 not be such a small business. But, again, I think in the
2 implementation of this law we've been working to
3 accommodate a lot of the concerns that have been raised.

4 So I think the staff has taken all this into
5 account. I think they've done a good job. I attended the
6 workshop. And I think that the proposal is a sound one.
7 And I think that we need to continue to work with a lot of
8 the stakeholders on implementing laws as we have. But at
9 the same time I think some adjustments to the law, as the
10 staff has proposed, are appropriate.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,
12 Mr. Paparian.

13 Mr. Washington.

14 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

15 And I certainly agree, Mr. Paparian, that we want
16 to work within the spirit of the law that is before us.
17 At the same time, I do -- with the questions that the --
18 that Randy and those guys at the Soap and Detergent
19 Association raised I think are valid questions. And to
20 that end I wanted to ask Patty or Bill or whoever wanted
21 to respond to some of the concerns that Randy did raise as
22 it relates to small businesses: What effect does this
23 have on small businesses? Has there been any evaluation
24 of cost effectiveness as it relates to the businesses and
25 making sure that people are included in this process?

1 I certainly, one who has been a lawmaker for six
2 years, believe that we should follow the letter of the
3 law. But I do at the same time believe that as a
4 regulatory agency, we have an obligation to make sure that
5 we help people along the way. One of the things I don't
6 want to walk away from here as a Board member is saying
7 that we've -- we killed off small businesses. And
8 according to Randy, that potentially can happen to us with
9 the passage of this -- these as they stand.

10 So if anyone wants to respond to that.

11 DEPUTY DIRECTOR WOHL: Sure. Patty Wohl.

12 I'd like to make a couple comments. One, is to
13 remind the Board that these businesses, whether the rate
14 is above or below 25 percent, need to be in compliance and
15 they need to meet the law regardless.

16 So really to me the work should be done at the
17 beginning and at the time that it occurs. It's sort of
18 like doing your taxes. You know, you do your taxes when
19 they're due. And then if you get called three years later
20 to review your taxes, you're not recreating the story.
21 You should have the story ready and ready for the review.
22 So to me talking about --

23 BOARD MEMBER WASHINGTON: Unfortunately a lot of
24 people don't do that. They mix up the story and they get
25 called in to them.

1 (Laughter.)

2 DEPUTY DIRECTOR WOHL: All right. But there is a
3 process. They should know what they're buying now and
4 keep track of that, to me. So that when and if they're
5 asked -- and we're talking about a small percentage of
6 businesses that are actually asked -- they would have that
7 available and ready to share with us.

8 In the issue of the small businesses, I think we
9 addressed that, the certification that goes out in 2001.
10 We have done the research first to verify the company
11 size. And we have not sent out a certification to them.
12 So rather in the back end of -- after doing the cert and
13 coming forward and saying, "Okay, now we think these
14 should be exempted because they're small," we've just
15 eliminated from the process up front. So we're hoping
16 that we can catch a lot of them, and that would be an
17 non-issue in this next certification and any future
18 certifications.

19 So that's just a couple comments, and then I'll
20 let Bill comment too.

21 MR. ORR: Well, I think in addition to the
22 comments that Patty made, you know, as far as both what
23 Randy and indicated and also what Tim indicated, it really
24 reinforces why staff is bringing this issue forward, which
25 is we're trying to accomplish the objectives of this

1 specific mandate on the Board and at the same time free
2 ourselves up to work on the more collaborative market
3 development activities.

4 And I think the other thing I'd like to
5 underscore in regard to industry is that we've been
6 working to try to catch up with the current compliance
7 year that we're currently in. The items that were brought
8 forward today were primarily focused on the 1997 through
9 1999 certification. It's much more difficult to obtain
10 container information for three or four years ago. And I
11 think part of what we're trying to do through this item is
12 to have a certification that can be completed entirely
13 from start to end within one year. And it would be -- you
14 would be asking your container manufacturers for the
15 information while you're still working with them. If
16 there are mergers and acquisitions, those would be a lot
17 more current than what we're doing.

18 So I guess what I'm saying is we have analyzed
19 what's involved in certifying businesses. And part of the
20 cost is the delay between the time of the compliance year
21 and the certification. And through this item we're
22 looking at providing advanced notice to the companies when
23 they would be certified and then also to decrease the cost
24 involved because it would be current information.

25 And I think the final thing that I would just add

1 to that is that I think that we have looked at -- you
2 know, as I said earlier, we have analyzed a lot. And some
3 of the issues that came up regarding working with
4 container manufacturers and focusing on the recyclability
5 for small companies, that's actually something that Board
6 Member Paparian mentioned at one of the previous meetings
7 about focusing on things like compliant containers and
8 trying to facilitate compliance. So I think that's
9 another area that, through sort of providing certainty to
10 industry, we can focus on; and by limiting the number of
11 companies that are actually certified. The certification
12 you heard today started off with 950 companies. What
13 we're looking at for future certifications is starting
14 with a hundred companies or less. And I think that's an
15 area where the board has flexibility to minimize the
16 impact on individual businesses.

17 BOARD MEMBER WASHINGTON: And one final question,
18 Madam Chair.

19 CHAIRPERSON MOULTON-PATTERSON: Sure.

20 BOARD MEMBER WASHINGTON: Mr. Pollack, were you
21 at the workshop?

22 MR. POLLACK: Member Washington, yes, I attended
23 that workshop.

24 BOARD MEMBER WASHINGTON: And did you raise these
25 concerns at that workshop?

1 MR. POLLACK: I raised these concerns.

2 I think what we're still missing here is that we
3 still haven't done the evaluation of the thousand
4 certifications. Now, have we done a random sampling? You
5 know, how much time did it spend -- or did it take for you
6 to fill out these forms? How much cost was it to your
7 business? None of that has been conducted today.

8 BOARD MEMBER WASHINGTON: Is that correct, staff?

9 MR. ORR: We have not done that particular
10 evaluation, no.

11 BOARD MEMBER WASHINGTON: Okay. Thank you.

12 Thank you, Madam Chair.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.

14 Ms. Peace.

15 BOARD MEMBER PEACE: Well, one, I think the
16 statute was passed by the Legislature knowing that there
17 would be some cost to business. That companies have to
18 certify their compliance with the law should come as no
19 surprise. We've been implementing this law since 1995.
20 And the businesses have known for nine years that they
21 might have to provide a certification.

22 Is filling out forms and keeping information a
23 drag? Yeah, sure it is. But it's the law.

24 And, besides, I don't see that those who use
25 plastics would have made as much progress as they have

1 without this law.

2 And I believe our staff is always available to
3 help companies with the certification process. Isn't that
4 right?

5 DEPUTY DIRECTOR WOHL: (Nods affirmatively.)

6 BOARD MEMBER PEACE: Thank you.

7 CHAIRPERSON MOULTON-PATTERSON: Thanks, Ms.

8 Peace.

9 So, Ms. Wohl, I know I've struggled with this law
10 for quite a while. But basically you're saying this is
11 the law, that we're doing what we can, and that businesses
12 should work to change the law. Is that basically,
13 simplistically, what you're saying? I mean we have to
14 follow the law as it is now, don't we?

15 DEPUTY DIRECTOR WOHL: Well, and that is -- we
16 are looking at modifying it. The recycling rate is part
17 of the current law. So we're saying that piece does not
18 work anymore, so we're talking about changing that. So in
19 that sense.

20 But, yes, they must -- either way they must be in
21 compliance, they must do -- you know, use 25 percent
22 post-consumer or source reduced, every year they must do
23 that.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

25 I'm comfortable with staff's effort here.

1 Do we have a motion?

2 But I do hope that you will continue to work with
3 business to --

4 MR. LEAON: Madam Chair, before you entertain a
5 motion, can I. --

6 CHAIRPERSON MOULTON-PATTERSON: -- address these
7 issues.

8 Yes

9 MR. LEAON: Mike Leaon with the Plastics
10 Recycling Technology Section.

11 You know, I did want to make one additional point
12 on the cost. Staff did look at those issues. And based
13 on their examination, the high costs that were cited I
14 think are more the exception and not the rule in regard to
15 that.

16 And certainly I think this item reflects an
17 evaluation of the RPPC program. And as long as we're
18 talking about cost, I think we should also consider the
19 cost to the state of calculating a recycling rate that
20 doesn't measure the effectiveness of this program in
21 regard to regulated containers. I'm not sure that that's
22 the wisest expenditure of public funds.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you.

24 Mr. Paparian.

25 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam

1 Chair. And I think -- I mean the last one was a good
2 point. Regardless of whether we pass this resolution or
3 not, the questions about some of the costs on business are
4 going to -- would be there. I mean the businesses would
5 continue to have to comply with the existing law. So to
6 the extent that there are some issues there, I would
7 encourage Mr. Shestek and Mr. Pollack to bring those up to
8 the Legislature as this process goes forward. But I think
9 that what we have before us is a resolution that will make
10 the program easier to implement from our end of things.

11 So I'd like to move Resolution 2004-127.

12 BOARD MEMBER PEACE: Second.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. Motion by
14 Mr. Paparian, seconded by Ms. Peace, to approve Resolution
15 2004-127.

16 Please call the roll.

17 SECRETARY WADDELL: Paparian?

18 BOARD MEMBER PAPARIAN: Aye.

19 SECRETARY WADDELL: Peace?

20 BOARD MEMBER PEACE: Aye.

21 SECRETARY WADDELL: Washington?

22 BOARD MEMBER WASHINGTON: Not voting.

23 SECRETARY WADDELL: Moulton-Patterson?

24 CHAIRPERSON MOULTON-PATTERSON: Aye.

25 We must have a quorum on this for a majority. So

1 you'll have to come back to us next month. Sorry. I
2 thought we might have the votes for this. I understand
3 that this is a very tricky issue. But I do think our
4 staff has done everything they can to make this work.

5 BOARD MEMBER WASHINGTON: Madam Chair?

6 CHAIRPERSON MOULTON-PATTERSON: Yes.

7 BOARD MEMBER WASHINGTON: Let me -- Randy -- can
8 I ask Mr. Pollack one quick --

9 CHAIRPERSON MOULTON-PATTERSON: Sure.

10 BOARD MEMBER WASHINGTON: Come to the podium one
11 more time, Mr. Pollack.

12 And what I wanted to make sure -- I don't want to
13 hold this item up, and that's not my intent. But I do
14 want to make sure that -- and I think it's critical. And,
15 Ms. Wohl, if you can assure me that you will work with Mr.
16 Pollack -- I think the cost effectiveness is a great point
17 that he made. And if you guys can work with them on that,
18 Randy, if you'll be comfortable with working with them to
19 get those numbers -- because I would like to see that too
20 in terms of -- that the evaluation that you just talked
21 about to see if we could -- to see really what would be
22 the outcome of passing this RPPC.

23 MR. POLLACK: Well, I think one of our concerns
24 is what we're doing is going from -- if a 25 percent
25 overall recycling rate is met, companies do not have to

1 provide certification forms. So what we're going to do
2 right now under this resolution is that every year there's
3 going to be a certification no matter what the overall
4 recycling rate is. And throughout the country you're
5 talking about hundreds of thousands of companies that are
6 subject to this law. So it's not just California
7 companies. It's any company throughout the United States
8 that manufactures or distributes or sells something in
9 plastic containers. So it's not a very small world we're
10 talking about.

11 BOARD MEMBER WASHINGTON: All right. Thank you.

12 MR. POLLACK: Thank you.

13 BOARD MEMBER WASHINGTON: With that, Madam Chair,
14 I change my vote from "not voting" to "aye."

15 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
16 Washington.

17 We have Resolution 2004-127 approved.

18 Before we go on with our agenda, we're going to
19 present a resolution and then we will take a short break.

20 If I might have Patty Bertram please join us here
21 at the podium.

22 We are really happy to have Patty here today so
23 the Board can honor her. Not all of us were able to be at
24 your going-away party. But I just want you to know you're
25 really going to be missed.

1 Patty has -- come on up to the stairs, Patty.

2 She has --

3 (Applause.)

4 CHAIRPERSON MOULTON-PATTERSON: -- a very, very
5 distinguished career with the state, and especially with
6 the Waste Board. She was clerk to the Board from 1994 to
7 1999 under Chairman Jeff Huff and then also Dan
8 Pennington. And she kind of ran the place then. And
9 so --

10 (Laughter.)

11 CHAIRPERSON MOULTON-PATTERSON: -- we really,
12 really do appreciate everything that you've done. You've
13 just been so important to us all. And I want to thank you
14 on behalf of the Board. We know you're going to have a
15 wonderful retirement. And we're just so glad that you
16 could come back to accept this.

17 (Applause.)

18 CHAIRPERSON MOULTON-PATTERSON: Would you like to
19 say a few words, Patty?

20 MS. BERTRAM: Okay. Thanks for the opportunity.

21 CHAIRPERSON MOULTON-PATTERSON: we're not
22 twisting your arm or anything.

23 MS. BERTRAM: I am not a public speaker. But it
24 was with deepest gratitude and appreciation that I accept
25 this award. And thank you. It's been a very good

1 experience for me working at the Board. It greatly
2 expanded my knowledge of the state system. And it's been
3 nice to be close to the Board members and serve in a way
4 that I feel like I could help.

5 Thank you very much.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you, Patty.

7 (Applause.)

8 CHAIRPERSON MOULTON-PATTERSON: We'll be taking a
9 ten-minute break right now.

10 Thank you.

11 (Thereupon a recess was taken.)

12 CHAIRPERSON MOULTON-PATTERSON: If we could call
13 the meeting to order please.

14 Ms. Peace, do you have any ex partes?

15 BOARD MEMBER PEACE: No, I have none.

16 CHAIRPERSON MOULTON-PATTERSON: I have none.

17 Mr. Washington, do you have any?

18 BOARD MEMBER WASHINGTON: I have none.

19 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

20 BOARD MEMBER PAPARIAN: I spoke briefly with
21 Randy Ward regarding the item for OEHHA funding from the
22 tire program. And then I spoke with several people from
23 the Water Board about the biosolids item.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Great.

25 Speaking of the biosolids item, that brings us to

1 No. 4.

2 Ms. Wohl.

3 DEPUTY DIRECTOR WOHL: Yes. Agenda Item 4,
4 presentation of background on issues impacting biosolids
5 management in California.

6 And we have a PowerPoint presentation by Ron Lew.
7 But before that Judy Friedman would like to intro the
8 item.

9 MS. FRIEDMAN: Good morning, Chair
10 Moulton-Patterson and Board members. Judy Friedman with
11 the Organics and Resource Efficiency Branch.

12 The item before you today is an information item.

13 During the course of our normal work biosolids
14 issues have been cropping up with greater frequency. For
15 example, over the course of the last couple of years when
16 we've been working with South Coast Air Quality Management
17 District we've been dealing with biosolids and
18 co-composting in terms of their Rule 1133.

19 We felt it was important to begin to educate all
20 of us about biosolids issues and where they may intersect
21 Board programs. This information -- this is an
22 information-only item. There's no action requested of the
23 Board today, just the chance for information and
24 discussion.

25 And with that I'll turn the presentation over to

1 Ron Lew.

2 (Thereupon an overhead presentation was
3 Presented as follows.)

4 MR. LEW: Good morning, Madam Chair, members of
5 the Board. Ron Lew with Organic Materials Management
6 Section.

7 As Judy Friedman said, this is an information
8 item.

9 Biosolids management in California is complex and
10 multi-faceted and controversial. There are numerous
11 federal, state, and local laws. Local ordinances, they're
12 in some cases stricter than what the federal regulations
13 require. There are various regulatory agencies in
14 California involved in regulation of biosolids, including
15 the Waste Board.

16 There are public perception issues over the
17 safety of biosolids and land applications of biosolids.
18 There's questionable adequacy of the federal law, which is
19 503 -- Part 503 of the Clean Water Act, which regulates
20 biosolids management throughout the nation. There are
21 markets issues. There's a lot of stuff here.

22 I want to just briefly touch on a couple of
23 issues today, just to get sort of a big picture view of
24 biosolids, and maybe some of the issues that could impact
25 the Waste Board in terms of diversion and disposal issues.

1 --o0o--

2 MR. LEW: Okay. A couple of the topics we're
3 going to be looking at today are, as background
4 information: What are biosolids? How are they used in
5 California? Just a broad overview of the regulatory
6 framework for biosolids management. The NRC, National
7 Research Council report, which looked at the adequacy of
8 the Part 503 rule in protecting public health and safety
9 and their exposure to biosolids and some potential
10 diversion, disposal, and market impacts of biosolids.

11 --o0o--

12 MR. LEW: Okay. Biosolids, in simplistic terms,
13 they are a nutrient-rich product of the waste water
14 treatment systems in California. We have 250 treatment
15 plants, commonly known as POTW's, publicly owned treatment
16 works, and a series of collection systems that collect
17 human wastes and process them into sludge through a
18 dewatering process.

19 Once that sludge is treated with anaerobic
20 digestion and heat, the result is biosolids. And it's
21 important here to make the distinction between sewage
22 sludge and biosolids. Interestingly enough, the federal
23 regulations don't make that distinction. In fact, the
24 word "biosolids" never appears in the federal regulations.
25 They're only referred as sewage sludge. But for our

1 purposes and, you know, as a term of heart, biosolids is
2 the end product after sewage sludge has been treated.

3 And generally there are three classes of
4 biosolids: Class B, Class A, and exceptional quality, EQ.

5 --o0o--

6 MR. LEW: Class B is a type of biosolids that
7 contains low levels of pathogens when land applied. And
8 those pathogens rapidly break down after they are applied.
9 And this is the most common form of land application of
10 biosolids, Class B.

11 It's also the most controversial. This is where
12 we get the issues of potential health impacts. You get
13 complaints about odors and things of that sort.

14 Class A is essentially free of pathogens prior to
15 land application. And it's important to note that Class A
16 and Class B both have the same metals content. And those
17 are regulated by Part 503 of the Clean Water Act as I
18 alluded to before, the main federal regulation that
19 regulates biosolids management throughout the nation.

20 And the last is EQ, exceptional quality. And
21 this is the type of biosolids that's processed further
22 than Class A or Class B; has no pathogens, as in Class A;
23 and has lower metals than either Class B or Class A.

24 --o0o--

25 MR. LEW: Okay. Biosolids in California. Seven

1 hundred fifty thousand dry tons, or 3.7 million wet tons,
2 are produced annually in California.

3 The main use in California is as -- it takes
4 place in land application as -- using biosolids as soil
5 amendments or fertilizer. This is actually the cheapest
6 form of biosolids usage. And when these -- when land
7 application is too costly or not available, well, then it
8 gets disposed. When land-applied, biosolids are used in
9 four forms: Either as a rich, moist soil amendment, as a
10 dry pellet, a liquid, or a compost.

11 --o0o--

12 MR. LEW: Of land applications, we see 54 percent
13 is land applied. And, again, it's the primary way that
14 biosolids are used in California. Also, I would note, the
15 most controversial. It's used to enrich nutrient-depleted
16 soil. It builds soil structure, as compost does. And,
17 again, there is controversy and continuing controversy by
18 the public over the presence of pathogens, heavy metals,
19 and odors when applying.

20 Composting is the second largest grouping
21 category of biosolids usage in the state.

22 I would make the distinction here between land
23 application and composting. The controversy we have with
24 biosolids occurs when you land apply biosolids straight to
25 the land. Composting in a sense uses biosolids as one of

1 its feed stocks and turns it into composting. So it takes
2 it a step further. And this is less controversial. And
3 there's some data out there suggesting that composting
4 mitigates a lot of the problems you have with land
5 application of biosolids.

6 You can use a bulking agent during the composting
7 process, such as wood chips or green waste, to achieve a
8 finished composting product.

9 And one other thing I would note is that
10 composting of biosolids needs to be done at permanent
11 facilities that allow biosolids as a feed stock. So not
12 all composting facilities are permitted for this.

13 --o0o--

14 MR. LEW: The next largest category is ADC,
15 alternative daily cover. And I think we're familiar with
16 ADC.

17 One of the problems with ADC is that there's
18 competition among other materials to be used as ADC
19 because of -- you know, allowing ADC to count as
20 diversion, biosolids would compete or cannibalize other
21 materials at landfills. So although we see ADC used at
22 some landfills, it's not a very common practice.

23 Six percent of biosolids in California are
24 disposed of in landfills. And, again, they can only be
25 disposed of at permanent landfills. Of the 161 active

1 landfills in California, about 60 are permitted to take
2 biosolids. Although a much smaller percentage actually
3 do.

4 Going down further. Incineration equals five
5 percent. One of the problems in incineration is, first,
6 we don't have many incineration facilities in California.
7 They're mostly located down in southern California.

8 The second problem is when you incinerate
9 biosolids, you get a bio-accumulation in a sense of the
10 metals. You concentrate the metals in the ash that
11 results. And what happens then is you need to dispose of
12 that ash in a landfill. So there are problems with metal
13 concentrations.

14 Surface disposal is four percent. It's a small
15 percentage of the biosolids, and it's one of the least
16 used management options in the sense it uses land prior to
17 the development of the landfill. You need an impermeable
18 surface. You put the biosolids on top, you spread them
19 out thin, and you just leave them there to decompose.
20 Problem with this option is that you need a lot of surface
21 land, and something we don't necessarily have in southern
22 California and California, at least near POTW's that
23 produce biosolids.

24 And the last is storage. Again, not a very
25 common option. One common way of doing this is storing it

1 in shallow water bodies like lagoons, and you just leave
2 it there for long periods of time. There are problems
3 with that too. The main one being, you know, where to
4 locate these lagoons.

5 --o0o--

6 BOARD MEMBER PEACE: Ron, can I just ask a
7 question?

8 MR. LEW: Sure.

9 BOARD MEMBER PEACE: On the land applied, why is
10 that still so controversial?

11 MR. LEW: It's controversial -- there's -- and
12 I'll get into it a little bit later. But there's
13 anecdotal evidence that land applying biosolids -- because
14 they still contain some pathogens when you apply it, there
15 have been claims of health issues, ranging from mild
16 irritants like flu symptoms to long-range chronic
17 diseases, you know.

18 So, you know, that's an issue. And it still
19 hasn't -- the science has not resolved that yet. But
20 EPA's working on it. And I'll get to that in a moment.

21 The other issue is, because the biosolids contain
22 pathogens, at least the Class B when you apply it, it's
23 being put on crops. And now I should note that when it's
24 being put on crops, most of the crops it's being used for
25 is for livestock. You don't see very many land Class B

1 biosolids being applied directly to food crops like
2 lettuce or broccoli. But it can be applied to, for
3 instance, orchards and fruit trees. So that's part of the
4 problem there.

5 Does that answer your question?

6 BOARD MEMBER PEACE: Yes, thank you.

7 And then I wanted -- on the incineration part,
8 after it's incinerated is there ash left?

9 MR. LEW: That's correct, there's ash and --

10 BOARD MEMBER PEACE: And is the ash then a
11 hazardous byproduct or can it go into a regular landfill?

12 MR. LEW: Considered a hazardous product.

13 BOARD MEMBER PEACE: Has to go to a hazardous --

14 MR. LEW: Correct.

15 Okay. This is sort of a graphic representation
16 of what I just talked about. You see the 82 percent of
17 the use of biosolids in California is a nondisposal land
18 application composting ADC. That's the majority of it.
19 Disposal constitutes about 15 percent land filling,
20 surface disposal, incineration. The other is storage.
21 And we have up there conversion technologies with a
22 question mark by it because we don't have any CT
23 facilities sited in California. But the Waste Board is
24 looking at evaluating conversion technologies. And it's
25 possible that biosolids could be used as a feed stock for

1 those facilities.

2 --o0o--

3 MR. LEW: Okay. Just a quick oversight on the
4 regulatory framework. In the agenda item itself, in
5 Tables 1 and 2, I've outlined the federal laws and the
6 state laws. And if you refer to that -- we don't have to
7 do it now -- but they're pretty numerous. The main
8 umbrella federal regulation that manages -- that regulates
9 how biosolids are managed and disposed of is the Part 503
10 of the Clean Water Act. And on the federal level there
11 are 11 other laws that work in tandem with that.

12 At the state level we have six laws on the books
13 that regulate how biosolids are managed. And the Waste
14 Board is involved with three of those laws: The
15 Integrated Waste Management Act, the composting regs, and
16 the ADC regs.

17 And some of the state regulatory agencies that
18 are involved in biosolids management in California are the
19 Health Services, the Water Board, the regional quality
20 boards, the Waste Board, CDFA, Toxics, and the Air Board.

21 I should note here that the Water Board really
22 plays the largest role in management of biosolids in
23 California, having to do with waste discharge permits and
24 general waste discharge permits that regulate how
25 biosolids are applied to land.

1 --o0o--

2 MR. LEW: Okay. I just wanted to very briefly
3 summarize the NRC report on biosolids that came out in
4 2002. This is important because it looked at the adequacy
5 of the federal regulation managing biosolids throughout
6 the nation, and found some flaws in that law. And it made
7 some recommendations to you as EPA how to fix it. And
8 depending on what U.S. EPA does in the next couple years,
9 it's going to impact how biosolids are managed throughout
10 the nation and in California, and could have a direct
11 impact on the Waste Board in terms of diversion and
12 disposal of biosolids.

13 So I thought it was worth going through very
14 quickly.

15 Basically the NRC looked at the 503 rule and
16 concluded that a lot of the risk assessments that U.S. EPA
17 did when they promulgated this law over a dozen years ago
18 was based on outdated risk assessment methods for both
19 chemicals and pathogens. And so NRC is recommending that
20 U.S. EPA update their risk assessment methods to get a
21 good handle on whether biosolids on the chemical side and
22 the pathogen side actually do pose a hazard to human
23 health.

24 In tandem with that, they recommend to U.S. EPA
25 to conduct a new national survey of chemical and pathogen

1 in biosolids. Again, there's been some chemicals and
2 pathogens that have cropped up in recent years that wasn't
3 only -- wasn't adequately accounted for back when the law
4 was promulgated. So that needs some updating.

5 --o0o--

6 MR. LEW: They're recommending that U.S. EPA
7 establish an approach to human health investigations.
8 And, again, this would go far in establishing whether
9 biosolids are hazardous to human health.

10 And, finally, they recommend that U.S. EPA
11 increases its resources devoted to its program.

12 --o0o--

13 MR. LEW: The general conclusion they reach --
14 and this is an important part of this -- is that they
15 found -- and I'm quoting here -- "There is no documented
16 scientific evidence that the Part 503 rule has failed to
17 protect human health. However, additional scientific work
18 is needed to reduce persistent uncertainty about potential
19 for adverse health effects from exposure to sewage
20 sludge."

21 One of the complaints of the NRC report is that
22 it never addressed, and it actually never sought to
23 address, whether biosolids are safe or not. It didn't
24 provide a definitive answer to that because it wasn't
25 looking for it. It essentially looked at the Part 503

1 rule to decide whether the rule itself was adequate to
2 protect human health.

3 --o0o--

4 MR. LEW: So U.S. EPA has come up with an action
5 plan directly responding to the NRC report. And this was
6 just published in the Federal Register in January 2004, so
7 this is very recent.

8 Essentially U.S. EPA agreed with NRC that there
9 are problems with the 503 rule as was promulgated and
10 needs some updating. And they have decided 1) undertake a
11 new national survey to look for pathogens, bacteria -- and
12 when I say pathogens, I mean bacteria and viruses. They
13 did a pretty good job initially in the 503 rule looking at
14 the chemical side of it, metals and so on, but not really
15 the pathogens. And the pathogens are what are
16 controversial here. That's where people are making claims
17 that it's making them ill, long term, short term. And so
18 U.S. EPA has decided to focus on what is in biosolids,
19 what pathogens are there, and, you know, if there's been
20 anything new that's come up in the last few years.

21 Number 2, developing methodologies is to
22 determine how well land application standards protect
23 human health. Again, looking at the adequacy of the law
24 to see whether it actually makes provisions. And if you
25 implement biosolids management the way 503 rule is

1 written, does it protect human health?

2 --o0o--

3 MR. LEW: Initiate field studies to see that 503
4 standards for chemicals and pathogens are being met. In a
5 sense, looking to see that the 503 rule is being enforced
6 in states and jurisdictions.

7 And, number 4, conduct broad chemical and
8 pathogen inventory in biosolids to see what is presently
9 unregulated or unidentified. Again, the fear is that
10 there's some new things out there that we're not accounted
11 for -- we don't know about yet. And so this is an attempt
12 to do that, to get more updated information.

13 --o0o--

14 MR. LEW: And, finally, the most important
15 component of this, I think, is developing an incident
16 tracking system that identifies cases of sickness
17 associated with land application of biosolids.

18 And this is important, because there's really --
19 most of the reports on illnesses have been anecdotal to
20 this point. And there's been no systematic way or method
21 of tracking them over time and doing epidemiological
22 studies, so on and so forth, to gauge causality of illness
23 resulting from biosolids. So this is an attempt to do
24 that.

25 And U.S. EPA is not alone in this effort.

1 Apparently they're going to be farming out a lot of the
2 risk assessment work to private industry and universities.

3 --o0o--

4 MR. LEW: Okay. We came up with two scenarios
5 based on -- if U.S. EPA implements its action plan, which
6 should be done in the next couple of years, they're
7 saying, there are two possible scenarios that could come
8 out of this:

9 Number 1: If biosolids are found to be safe
10 based on the updated risk assessment methodologies, so on
11 and so forth, what would happen in terms of disposal,
12 diversion, market impacts? So here are a couple of the
13 outcomes we've come up with.

14 First off, if biosolids are safe, we speculate or
15 postulate that there will be an increased demand for
16 biosolids. People will want to use this stuff more on
17 land. I mean it's fairly cheap, it's been shown to be a
18 good fertilizer. It builds soil structure. There'll be
19 less land filling of it. There'll be more composting of
20 it. And there'll be increased diversion rates in
21 jurisdictions that -- where biosolids are produced.

22 I should note here too, where biosolids are
23 produced, where the POTW treatment plants are located is
24 where the diversion rates would be impacted. It's not
25 where they're actually land filled. It's where they're

1 being produced.

2 Now, one of the downsides of this is you have the
3 potential to depress compost markets from oversupply. If
4 you have huge amounts of biosolid feed stocks coming into
5 the composting process and operations, you have the
6 potential to exceed demand for compost. And this could in
7 turn depress compost prices.

8 And the other downside is you could run afoul of
9 PR 1133 and similar laws. PR 1133 said essentially that
10 composting operations need to exhibit something like a 70
11 percent reduction in emissions. And so if you have a huge
12 quantity of biosolids coming into these facilities, you
13 could run up against PR 1133 air emissions standards and
14 other laws.

15 --o0o--

16 MR. LEW: Okay. If biosolids are found to be
17 unsafe -- this is scenario number 2 -- what you could see
18 is you could see increasing land bans. And we've already
19 started seeing this in southern California in Kern County,
20 King County, Riverside County. You could see increased
21 land bans spreading up north throughout the state. You
22 could see increased disposal of biosolids. And you could
23 see decreased diversion, more land filling.

24 Paradoxically, you could also see an increase in
25 composting, as you did if biosolids were considered safe.

1 And the reason for this is composting actually, as I
2 alluded to before, does away with a lot of the problems of
3 biosolids: The pathogens; and it ties up some of the
4 heavy metals. So there may be a push to increase
5 composting even if biosolids are considered unsafe because
6 it in a sense makes them safer.

7 --o0o--

8 MR. LEW: And I'll leave you I think with this
9 last slide. Biosolids is an increasing problem. We have
10 600,000 new people coming into California per year. And
11 that's increasing at a steady rate. Biosolids are
12 generated every year. And it's perfect -- it's perfectly
13 correlated to increase in population. So this is an issue
14 that we're going to be tracking for the next several years
15 and something the Waste Board's going to have to keep an
16 eye on in terms of disposal and diversion issues.

17 And I'll take some questions if you have them.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you very
19 much.

20 Any questions from the Board?

21 BOARD MEMBER WASHINGTON: Madam Chair?

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

23 BOARD MEMBER WASHINGTON: Just briefly.

24 The how your biosolids are used. You say
25 landfill applied 54 percent.

1 Are we trying to get -- you gave me that smirk
2 like you know where I was going.

3 MR. LEW: No, no, I'm not --

4 BOARD MEMBER WASHINGTON: Are we trying to get
5 this number down?

6 MR. LEW: When you say "us," are you talking
7 about the Waste Board or the state in general or --

8 BOARD MEMBER WASHINGTON: In general.

9 MR. LEW: It depends who you talk to. This is a
10 tough issue. If you talk to environmentalists, they would
11 say, "We don't want this stuff being land applied. There
12 are problems with it." Although the science is not
13 definitive on this issue.

14 If you talk to people who are involved in
15 diversion, who don't want this stuff land filled, they'd
16 like more land application of it.

17 If you talk to farmers and they don't have
18 particular problems with it, they like it because it's
19 cheap.

20 So It really depends who you're talking to, what
21 constituent you're talking to. And that's what makes this
22 so controversial.

23 BOARD MEMBER WASHINGTON: All right. Thank you.

24 CHAIRPERSON MOULTON-PATTERSON: What about health
25 professionals? Where are they on this?

1 MR. LEW: The problem again is that the science
2 is -- the science is not definitive on this issue. We
3 have anecdotal evidence -- you know, there are different,
4 advocates for biosolids and opponents of it. And each can
5 dredge up, you know, information saying, "Well, this is
6 unsafe" or "it's perfectly safe."

7 It's interesting that the NRC report -- and this
8 could be telling -- is that there's no documented, you
9 know, studies out there showing that biosolids
10 definitively harm human health. But then there are
11 anecdotal evidence out there and cases. And so that's
12 what U.S. EPA is going to be looking at in the next few
13 years.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you.

15 Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

17 Just a couple questions.

18 I've heard that in terms of production of
19 hydrogen that there's been some work in terms of using
20 sewage sludge as a feed stock for hydrogen projection
21 and -- are you aware of any work in that area?

22 MR. LEW: I'm not personally. I'm wondering --
23 we have some biosolid experts here. But I think that
24 falls into the realm of conversion technologies. And if
25 we had our CT guy here, he may help with that.

1 But I could do some research and find out for you
2 if you wanted. But I'm not sure.

3 BOARD MEMBER PAPARIAN: Yeah, I mean it
4 certainly -- you know, it's been in the news that it's a
5 pretty high priority I know for the new Cal EPA Secretary.
6 And I think he -- I was at one of his speeches where he
7 actually mentioned sewage sludge as a possible feed stock
8 for stuff. And I'm just curious what the potential is
9 there.

10 The anecdotal health information, I have one
11 chart that I was given that suggests that there were three
12 incidents in Riverside County and one incident in Solano
13 County of complaints about things like blisters, fungus in
14 lungs, sore throats, other things. Has there been any
15 work looking at these claims in California that you're
16 aware of?

17 MR. LEW: I think that's going to be a focus of
18 U.S. EPA's work in the next couple years. The problem
19 there is that you have different target populations. And
20 you have, for example, people who are land applying the
21 biosolids directly. You have people in POTW's. You have
22 compromised populations, immunity compromise. You have
23 children, elderly. So depending on who you are, where you
24 are in the biosolids production application stages, you
25 have different risk exposures. And that's the point of

1 the -- their trying to do some epidemiological studies, to
2 actually see -- find out first where the causality is and,
3 second, who is more susceptible than others.

4 But the literature is pretty vague at this point
5 about, you know, where those cases are and developing
6 links back to biosolids. And I think we'll probably get a
7 good handle on that the next few years. It may take
8 longer than that, but that's definitely the push.

9 BOARD MEMBER PAPARIAN: Yeah, but in terms of the
10 California allegations, do you know if any -- like the
11 local health officer or anybody has investigated any of
12 these?

13 MR. LEW: I don't know for sure, but I could find
14 out if you wanted. I'm sure it's -- if there is some
15 documentation on it, it probably would be with local
16 health agencies, I would think.

17 BOARD MEMBER PAPARIAN: Okay. Thanks.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you very
19 much. It answered a lot of my questions.

20 We're working pretty closely with the Water Board
21 on this, aren't we? Or shouldn't we be or -- because I
22 was thinking, you know, we had one joint meeting with the
23 Water Board. And this might be an issue that we might
24 want to do a joint board meeting with -- another one with
25 the Water Board. I certainly think that this would be an

1 ideal issue.

2 MS. FRIEDMAN: Madam Chair. This is Judy
3 Friedman.

4 We have been in contact certainly with the Water
5 Board on this issue. In fact there are folks from the
6 Water Board here, who are in the audience. And If you had
7 any questions of them, they'd be, I'm sure, happy to --
8 Gordon Innes is one gentleman in particular. But, you
9 know, that is certainly at the pleasure of the Board, if
10 you want to pursue a joint board meeting or discussions.
11 But we are in contact with them on this issue.

12 CHAIRPERSON MOULTON-PATTERSON: Right. Well, I
13 would like to see us work very closely. And I appreciate
14 you being here.

15 Are there any questions for the Water Board at
16 this time?

17 Do you feel -- I guess I have a question, if one
18 of the Water Board representatives would come forward or
19 comment.

20 MR. INNES: Good morning. I'm Gordon Innes. I'm
21 with the State Water Resources Control Board. And I'm the
22 manager for what we call the Waste Discharge Requirement
23 Non-15 Program, which deals with discharge of
24 nondesignated waste to land.

25 CHAIRPERSON MOULTON-PATTERSON: Well, thank you

1 for being here.

2 And my question is just: Do you feel that our
3 coordination is going along fine or -- I mean can we call
4 you if we have questions? This is something that I think
5 that we should be working very closely with the Water
6 Board on. And just from your perspective, from the Water
7 Board's perspective -- I haven't talked to Art or Celeste
8 about this. Perhaps I should. Do you think the
9 communication's pretty good? Is there anything we can be
10 doing to help?

11 MR. INNES: I think the communication is fine.
12 I'm typically aware of the actions that the Integrated
13 Waste Management Board is considering. And it appears
14 that the Integrated Waste Management Board is pretty much
15 aware of what the State Water Board's doing.

16 CHAIRPERSON MOULTON-PATTERSON: They what? I'm
17 sorry.

18 MR. INNES: Is the Integrated Waste Management
19 Board always seems to be fairly aware of what the State
20 Water Board is doing.

21 CHAIRPERSON MOULTON-PATTERSON: And you'll keep
22 us apprised of anything we should know?

23 MR. INNES: Yes.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you
25 very much. I appreciate you being here.

1 MR. INNES: Okay. One thing we do have coming
2 out is we have an EIR that we're in the process of
3 developing for our general permit for the application of
4 biosolids to land. And we should be issuing that EIR in
5 the next I think two or three months. Correct?

6 That's correct.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you
8 so much for being here. We appreciate it very much.

9 MR. INNES: Thank you.

10 MR. LEW: Madam Chair, I just want to follow up
11 on Board Member Paparian's question about hydrogen. I did
12 get an answer to it.

13 Apparently you can get hydrogen from biosolids
14 using some of the higher temperature technologies such as
15 pyrolysis or gasification. So -- again, we don't have
16 that technology here. We don't have a plant sited. But
17 it's possible that it could be sited in the future. And
18 it's definitely a technology to look at if it's a priority
19 of the administration.

20 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

21 MR. LEW: Thank you.

22 CHAIRPERSON MOULTON-PATTERSON: And thanks for
23 all the information.

24 Okay. At this point, before we break for lunch,
25 we want to give a very special resolution to one of our

1 own.

2 And, Mr. Jones, I'd like to ask you to come up
3 here with us. It seems really very, very strange not
4 having you here.

5 (Applause.)

6 CHAIRPERSON MOULTON-PATTERSON: Although my
7 voice -- everybody can hear me pretty well, can't they?
8 It's that teacher voice.

9 Yes, Steve, thanks so much for coming. I
10 understand you're really busy already. And we really
11 appreciate you taking the time to come back to let us
12 honor you.

13 We have a resolution. I'm not going to read
14 every word. But there are some "whereases" I -- in this
15 case I would really like to read.

16 As you know, Mr. Jones was appointed by two
17 governors, Governor Wilson and Governor Davis, and that's
18 quite an honor in itself.

19 I think this part's real -- being a
20 history major, I think this part's real
21 interesting.

22 "Whereas, Mr. Jones's career in the
23 solid waste industry spans more than 20
24 years. In 1975 he began his career in
25 San Francisco with the Golden Gate

1 Disposal Company, originally named
2 Scavengers Protective Association which
3 was co-founded by his wife's grandfather
4 during the horse and wagon days nearly a
5 century ago. Here Moose, as he was
6 correctly nicknamed, worked as a
7 mechanics helper, a garbage collector,
8 and then parts manager.

9 "Mr. Jones later worked for NorCal
10 Waste Systems for nearly 20 years. As
11 NorCal's Vice President of Operations,
12 he was responsible for five divisions
13 comprising more than 30 operating
14 companies, which included the collection
15 operation management of 16 landfills and
16 14 transfer stations, MRF's, and
17 recycling facilities.

18 "And he's been a real partner with
19 local government and of course with the
20 solid waste industry, which he very,
21 very well represented."

22 I want to read this one "Whereas" too:

23 "During his tenure Mr. Jones did so
24 many different things, but specifically
25 he led the Board through the 21st

1 Century Strategic Planning; planning the
2 Integrated Waste Management Plan;
3 reviewed processes; served as
4 California's Co-chair of America
5 Recycles Day, which was a national event
6 designed to celebrate and promote
7 recycling and buy-recycled efforts; led
8 the Board group that developed and
9 negotiated the new CIWMB and SWANA
10 Manager of Landfill Operations
11 Certification Program; and designed and
12 improved landfill operations and
13 inspections statewide through
14 standardized training, developed the
15 Waste Tire Manifest Program; and
16 strongly supported and promoted the
17 critical importance of conversion
18 technologies for the future successes of
19 California's solid waste management.

20 "And, whereas, Mr. Jones was
21 instrumental in guiding Senate Bill 876
22 through the Legislature and into law,
23 authorizing the Board to promulgate by
24 rule a plan utilizing tire fees to
25 remove waste tires from illegal tire

1 dumps, provided grants to people that
2 will use waste tire-derived products and
3 use waste tire as fuel in resource
4 recovery activities."

5 And I could go on and on. Mr. Jones has
6 contributed so much to this Board.

7 And I want to just thank you personally, Steve,
8 for being a friend for the last five years, for always
9 being straight with me. We've had our disagreements, but
10 I've learned a great deal from you, and I really
11 appreciate it. And you are very, very missed on this
12 Board, Steve.

13 (Applause.)

14 CHAIRPERSON MOULTON-PATTERSON: Thank you.

15 And I certainly -- we're going to take Steve to
16 lunch and we'll be able to share our comments there. But
17 if any of my colleagues would like to say something on the
18 record, they're more than welcome. And I certainly want
19 to give Mr. Jones a chance to speak.

20 Mr. Washington.

21 BOARD MEMBER WASHINGTON: This is a good man.

22 (Laughter.)

23 BOARD MEMBER WASHINGTON: A good man. As the
24 Chair said, you really already have been missed on this
25 Board. I've learned so much from you in terms of the

1 overall picture of this Board, what this Board is about,
2 what it's for. And the type of attitude you brought to
3 this Board is to stay focused on what we're here for and
4 not get off the mediocre little plans that people try to
5 take us down, but to stay focused on what's going on.

6 And I came to this Board and there was a hot
7 issue, and I went to Steve and said, "What the heck is C&D
8 regs?" And he really brought me up to date as to what was
9 going on.

10 And I tell you, man, already I've missed you.
11 And we will be in contact on a continuing basis.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

13 BOARD MEMBER PAPARIAN: Yeah, you know, I join my
14 colleagues. I learned a lot from Mr. Jones and his
15 experiences in the waste industry. And, boy, you served
16 with vigor, with tenacity, with class, I think. And I
17 think that the programs of the Board -- you made your mark
18 on the programs of the Board. And I think that our
19 programs are a lot better off as a result.

20 BOARD MEMBER WASHINGTON: Yeah, I had some good
21 fights too.

22 (Laughter.)

23 CHAIRPERSON MOULTON-PATTERSON: That's healthy.
24 That's why we need a board.

25 Ms. Peace.

1 BOARD MEMBER PEACE: Well, I just wanted to say I
2 enjoyed being your seatmate for the last year. I too
3 learned so much from you. You know, Steve's door was
4 always open. He always had time to answer my questions,
5 to give me historical background on an issue. Of course
6 he also gave me his opinion. But he always respected
7 mine, even we though disagreed. And for that I thank you
8 and I wish you the best of luck.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you.

10 Steve, would you like to say a few words?

11 MR. JONES: Just real quick.

12 It was a great seven years. I think I've said
13 enough in seven years, that I don't need to say much more.

14 I appreciate my last day here with all the staff,
15 coming back. It meant a lot. I have an incredible
16 respect for everybody at this place.

17 So thanks.

18 (Applause.)

19 CHAIRPERSON MOULTON-PATTERSON: We're going to go
20 to lunch now.

21 Thank you.

22 We'll reconvene at 1:30 for the emergency regs.

23 (Thereupon a lunch break was taken.)

24

25

1 AFTERNOON SESSION

2 CHAIRPERSON MOULTON-PATTERSON: We'll reconvene
3 our April Board meeting.

4 Do you have any ex partes, Mr. Peace?

5 BOARD MEMBER PEACE: Oh, yes I do.

6 I spoke to Yvonne Hunter from the League of
7 California Cities and Shari Afshari from the L.A. County
8 regarding SB 20.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

10 I have none.

11 Mr. Paparian.

12 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

13 I spoke with Barry Takalou regarding the tire
14 program and the RAC Center report.

15 I spoke to John Cupps regarding the E-waste item
16 we're about to take up. Also Yvonne Hunter on the same
17 item. And then also Michael Sweeney who's representing
18 Triced T-r-i-c-e-d on the same E-waste item.

19 And then, Madam Chair, on my chair -- I assume
20 this will be on behalf of all of us -- I have a letter
21 from -- and it appears to be some testimony from
22 Hewlett-Packard regarding the SB 20 regulations that we're
23 about to take up.

24 CHAIRPERSON MOULTON-PATTERSON: Right. Just for
25 clarification -- you know, we'll go ahead and do that --

1 but if something's presented at the Board meeting to all
2 members, we don't necessarily have to ex parte it. Is
3 that right, Ms. Carter?

4 CHIEF COUNSEL CARTER: Yes, as long as it's
5 mentioned during the Board meeting, you ex parte'd it
6 through your public discussion right now.

7 CHAIRPERSON MOULTON-PATTERSON: Okay.

8 CHIEF COUNSEL CARTER: Does that answer your
9 question?

10 CHAIRPERSON MOULTON-PATTERSON: Yeah, it does.
11 So anything that comes up here during the
12 testimony we're supposed to note?

13 CHIEF COUNSEL CARTER: Yes.

14 CHAIRPERSON MOULTON-PATTERSON: Well, it's real
15 important that Ms. Waddell tell me then, because I was
16 unclear on that.

17 Okay. Thank you.

18 Mr. Washington?

19 BOARD MEMBER WASHINGTON: I'm up to date.

20 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

21 This brings us to Item 10 that was time certain
22 for 1:30, which is emergency regs for the E-waste item.

23 Who's going to be starting to present this?

24 Good afternoon.

25 MS. WILLD-WAGNER: Good afternoon, Madam Chair

1 and Board members. I'm Shirley Willd-Wagner, and I will
2 present this item this afternoon.

3 As you know, the last two months we've given you
4 updates about the E-waste program and what we're doing on
5 the regulations. Today Item 10 asks for your
6 consideration and approval of the emergency regulations
7 and for the finding of a categorical exemption under the
8 California Environmental Quality Act.

9 Back in September we followed the time lines in
10 the bill to set it up how we wanted to proceed. And we
11 had set April as a crucial date to come to the Board here
12 for the approval of the emergency regulations.

13 This regulation package will provide some needed
14 certainty to recyclers, collectors, and retailers as they
15 move forward to develop their programs for the July 1
16 startup date. And of course we as staff need to develop
17 program materials, including application forms, desk
18 manuals, resources for participants, all to gear up for
19 the implementation of the program.

20 The key -- a couple of keys to remember is that
21 these are only emergency regulations. And under Senate
22 Bill 20 we have two years to have the authority for
23 emergency regulations before we need to develop permanent
24 regulations.

25 We all know that there will need to be changes to

1 the regulation package, specifically in relation to any
2 legislative amendments such as SB 50 which is out there
3 floating around, and we may need to tweak or adjust the
4 regulations to fit anything that would come up.

5 To start off I really want to emphasize -- I know
6 that you're pretty aware of all of the involvement we've
7 had with the extensive stakeholder workshops. I really
8 want to credit and let you know that we would not be here
9 today and could not be here today without the involvement
10 of our stakeholders in this process.

11 We've held five different stakeholder workshops.
12 All of them were very long days, 8:30 to 4:30 basically.
13 The stakeholders have been totally committed to this
14 process. They have provided specific information to us,
15 been giving specific comments and feedback and continue to
16 do so. We were posting our agendas on the website as well
17 as background materials, kind of homework that we would
18 give to the stakeholders. Every workshop they came
19 prepared and ready to participate fully in our workshops.
20 They've really been tenacious and stuck through everything
21 with us, all the way through to today. And you'll here
22 from many of those committed stakeholders also today.

23 I want to also mention that several of the
24 comments that we have received are going to be geared a
25 little bit more towards legislative changes that might

1 need to be made to the bill rather than this specific
2 regulatory package. And I'll try to keep that pointed out
3 as we go through. And any of our experts here can also
4 speak to that if it becomes an issue.

5 I want to acknowledge our E-waste team here in
6 the front row and at the table here. We sort of kicked
7 out the deputy directors for this part of the agenda.
8 This team, again, was appointed in October and brings
9 together what I consider the best and the brightest, a lot
10 of people at the Board here. I really want to thank all
11 the deputy directors for committing the resources to
12 enable us to get to this point.

13 Also, a final acknowledgement to the Department
14 of Toxic Substances Control. The law requires that we
15 jointly administer this program with DTSC. And it's just
16 been a wonderful collaborative working relationship.
17 They're here today, I notice. They've been with us every
18 step of the way. We're trying to synchronize our
19 regulation packages, and their input has been critical on
20 many of the issues that we're presenting today.

21 To just give you a little idea of how the format
22 that I'd like to work with today, if it's all right, is I
23 will provide a quick overview of the entire regulation
24 package, briefly summarizing each of the articles and
25 specifically highlighting where there are still issues of

1 stakeholder concern. So I'll be summarizing in other
2 words the comments that we received April 2nd at our final
3 regulatory workshop as I go through the regulations.

4 The time line was: We posted the emergency
5 regulations in draft form on March 23rd, as we had
6 committed. Stakeholders had about a week and a half then
7 to review those regulations, come to the workshop on April
8 2nd. They came, again prepared, made lots of comments,
9 provided written documentation. And then we made some
10 final adjustments to the regulations and posted them just
11 last Thursday. And we had two formats posted on our
12 agenda -- on our website, a strike-out version so
13 stakeholders could see exactly what he had changed, strike
14 out and underlined; and then the clean version that was
15 attached to the Board's agenda item, along with the
16 executive summary.

17 Then after I go through the full overview of the
18 regulations, our panel of experts here that actually wrote
19 the regulations can answer questions from you and/or the
20 stakeholders. They don't have specific presentations to
21 make, but are here and available for comments and
22 questions.

23 I also wanted to point out, as you did, Madam
24 Chair, the errata sheet. Since Thursday we found a few
25 minor corrections, mainly typographical type errors, and

1 some last-minute changes in the regulations. You've all
2 been provided with a copy of that, and there are several
3 copies at the back of the room.

4 Also I'm told that that is now posted as of one
5 o'clock on our agenda site, for those of you listening in.

6 Key concepts in the statute. I believe that
7 you're all pretty familiar with these. So just skimming
8 through, I wanted to mention that this is of course an
9 advanced recycling fee that is paid at the retail level
10 for all covered electronic devices. The covered
11 electronic devices are cathode-ray tubes or cathode-ray
12 devices, which mainly are televisions and computer
13 monitors; also laptop computers and LCD liquid crystal
14 display monitors.

15 Can I have that first slide keyed up.

16 I had only three slides this time. Tried to
17 just have a couple of things in front of us as we talked
18 through some of the key concepts.

19 (Thereupon an overhead presentation was
20 Presented as follows.)

21 MS. WILLD-WAGNER: Under the bill the Board uses
22 the revenue from this fee to make payments to electronic
23 waste collectors and recyclers to cover the net cost to
24 collect and recycle those covered electronic wastes.
25 Covered electronic wastes, you'll see CEW's everywhere on

1 the slide in the agenda item and in the in the -- in my
2 speaking points today I'll say CEW's a lot. And that's
3 what we're referring to, those covered electronic wastes.

4 So the slide here shows the way that we are
5 proposing for the money flow and the material flow.

6 The statute provides two different options for
7 the Board payments, either directly to the collectors and
8 the recyclers of electronic wastes or to make payments to
9 the collectors through the recyclers. In other words the
10 Board makes payments to the recycler, and the approved
11 recycler then turns around and pays to the collector.
12 That's what's showing here on the slide, and we've used an
13 example of the number of monitors and the number of
14 pounds. I'll go through that a little bit later in more
15 detail.

16 As I said, the statute provides these two
17 different options. And for a number of reasons we're
18 recommending the option where the Board pays the
19 collectors through the recyclers. We want to design a
20 program that reduces overhead and keeps administrative
21 costs to a minimum. We want to design to where the local
22 government and other private collectors can get their
23 payments in the most timely manner possible. This allows
24 them to get their payments more quickly.

25 Local governments would also get paid for all

1 covered electronic wastes delivered rather than those
2 cancelled. And I'll talk a little bit about that too.

3 And then also by paying collectors directly, I
4 think we've run into a number of problems with potential
5 fraud issues, possible double payment for devices that
6 might go around and around in the system, and leads to
7 additional problems with the audits.

8 Now, there are a few stakeholders certainly who
9 would prefer that the CIWMB pay collectors directly rather
10 than relying on recyclers to pay the collectors. We know
11 letters have been sent to the Board about this matter.
12 Staff discussed this issue in a recent call to the City of
13 Los Angeles, wherein the city expressed concerns that if
14 the money flowed through the recyclers, especially a
15 limited universe of recyclers, there is the potential for
16 the adjustment of costs in other service areas that could
17 erode the benefit of the recovery payment to the
18 collectors required in the regulations.

19 We as staff are committed to monitoring the
20 pricing of services for both the handling of the covered
21 electronic wastes and that of other electronic wastes to
22 determine if these concerns manifest themselves. And the
23 CIWMB will be, as I mentioned before, developing full
24 permanent regulations in the not-too-distant future. And
25 so that would give us an opportunity to look at this and

1 revisit it if necessary.

2 Okay. Overview of the regulations, real briefly.
3 Article 1 is definitions. We worked very closely, again,
4 with stakeholders and Department of Toxics to address
5 comments to make sure that we're consistent with the
6 language used by DTSC.

7 Article 2 describes the electronic waste payment
8 system. And that's kind of how you see on the slide here.
9 The first section, 18660.6, is applicability and
10 limitations. And this article describes the scope of the
11 payment system; it discusses eligible covered electronic
12 wastes, what the time frames for collection and recycling
13 activities are; defines some of the business practices,
14 how payments and claims would be handled, how documents
15 are stored, and also, specifically, how the CIWMB or its
16 agent can conduct an audit of the program participants.

17 There are a couple issues here to point out with
18 some stakeholder issues involved here. The first is
19 Section B time frames. Staff is proposing that we begin
20 payments to the recyclers and collectors on October 1st,
21 2004. This allows time for the recyclers and collectors
22 to apply to the program for the Board to review these
23 applications and certify them as approved collectors and
24 recyclers. It also allows DTSC the time to inspect the
25 recyclers and the recycling facilities. There's several

1 demonstrations that have to be met according to the bill.
2 And a DTSC inspection must be completed before a recycler
3 or collector is approved under the program.

4 It also might help with having collection and
5 recycling costs accumulate before the date of the fee.
6 And this is based on the anticipation in the letter that
7 you received, Chair, from Senator Sher about his intent to
8 delay the beginning of the fee collection until October
9 1st. So this is why we're also proposing that the
10 payments can be begin on October 1st, at the same date.

11 Of course all of this is kind of depending on us
12 securing the loan to begin the implementation of the
13 program.

14 --o0o--

15 MS. WILLD-WAGNER: Another issue in this article
16 is on the ability of the collector and the recycler to
17 charge a fee. This section explicitly allows a collector
18 or recycler to charge a fee for their service in certain
19 circumstances. And we've tried to capture this on the
20 slide. If the Board's recovery payment does not cover the
21 net costs to collect the material, then the collector may
22 charge a fee to the consumer. And that's in that first
23 box there under "authorized collector."

24 So they may charge a fee to the consumer if our
25 payment does not fully cover their net costs.

1 Correspondingly, if the Board's recycling payment
2 does not cover the full net cost to recycle CEW's, then
3 the recycler may charge the collector a fee. The
4 regulations as we have it proposed now do not allow -- or
5 limit the other -- limit charging the collector or the
6 recycler above and beyond -- I'm sorry -- unless the costs
7 exceed our payments.

8 Now, also of interest in this is the net costs
9 are defined to include a reasonable rate of profit or
10 return on investment. And the collector and recycler
11 define and establish their own reasonable rate of profit.
12 The Board will not be establishing this rate. All those
13 documents can be maintained as confidential and
14 proprietary.

15 Section 18660.10, the next section here,
16 discusses the net cost report. This is where we're trying
17 to gather data on the true cost of collecting recycle
18 E-waste. As you know, the bill provides the Board the
19 opportunity to adjust the fee of the six, eight, and ten
20 dollars on the covered electronic wastes as well as the
21 payment to recyclers and collectors every two years. In
22 order to do that we need to know what those true net costs
23 of recycling and collecting E-waste are.

24 So we have designed in the net cost report that
25 recyclers and collectors provide to us information on what

1 their costs are.

2 Originally this was an annual report. And based
3 on some stakeholder input, we decided make this upon
4 request by the Board. We will develop a template to make
5 the collection of this data as simple as possible and as
6 consistent, because that's been kind of the problem in the
7 past, is that we get people reporting what their costs
8 are, but they're not including the same type of
9 information. And that's why we're trying to be as
10 inclusive as we can to tell them what all can be included,
11 including we added publicity, education, marketing, this
12 is where your reasonable cost of profit -- rate of profit
13 is, overhead, permanent facility design, all of those
14 things so that we can truly figure out what those costs
15 are and bring you the best information for adjusting the
16 fee and the payment schedule in the future.

17 The rest of Article 2 basically covers record
18 keeping and audits, those types of -- that type of
19 information.

20 Article 2.1, applications for approval. This
21 article describes general and specific application
22 procedures for collectors and recyclers to become
23 authorized to participate in the payment system.

24 So we've established procedures, described
25 prohibited activities, and outlined an appeal process

1 also.

2 For this application we're proposing a concurrent
3 process with the DTSC inspection so that those interested
4 in becoming approved recyclers and collectors don't need
5 to wait until they've actually had the inspection. They
6 can apply with us. Then concurrently we can review the
7 application and then DTSC can perform the inspection. But
8 we wouldn't issue an approval until after the DTSC
9 inspection has been completed.

10 In this section also is another specific area to
11 point out. Initially we had proposed no payments for
12 out-of-state recyclers. After further research and
13 conferring with our Legal Staff and DTSC's Legal Staff, we
14 find that we -- in order to so limit those payments it
15 would interfere with interstate commerce. This is one of
16 those areas where we feel comments are related to
17 legislative changes rather than this regulation package.
18 And at this time it's our understanding that there may be
19 amendment in SB 50 to try to address that issue. I just
20 wanted to point that out.

21 We're getting there.

22 Article 2.2 of the business requirements. In
23 here we talk about specific requirements to be a collector
24 and requirements to be a recycler. Basically describes
25 information on collection of CEW's, how to transfer

1 collected materials to the recycler, disbursement of
2 payments and tracking of material. We worked really
3 closely with the League of California Cities, who I
4 certainly acknowledge their efforts in this, and provided
5 us with some language for reasonable efforts. And we've
6 been able to incorporate that.

7 We do want efforts by both the collector and the
8 recycler to ensure that the CEW's are generated within
9 California. Not coming from across the Board, statewide,
10 or a different country, but they are generated in
11 California. So we've come up with some language that we
12 think will help us establish that through reasonable
13 efforts. And the same with making sure that the devices
14 have not been previously cancelled.

15 Article 2.3 talks about recycling payment claims
16 and describes how recyclers submit the payments to the
17 CIWMB, depending on the type of the device and the type of
18 cancellation method. This also specifies that the
19 recycler track the weight of the devices and how much was
20 paid to the collectors. So we will also know that.

21 Okay. Sections 23, 4 and 5 really talk about
22 requirements for submitting claims based on the type of
23 cancellation method. Cancellation is a key that I know
24 we've discussed before. We want to ensure that a device
25 exits the payment system and cannot simply get cycled back

1 again and again to be repaid upon.

2 So these sections describe the methods for
3 canceling different types of devices and provides standard
4 conversion factors to be used in calculating the payment
5 claims. The methods that we have right now identified are
6 for a CRT containing device, either crushing or shredding
7 the full device, or canceling the device by dismantling it
8 to a bare CRT after relieving the vacuum.

9 Now, the new area is for a liquid crystal display
10 monitors and laptops. This is a very new area. You can
11 imagine not too many of those are coming into the
12 recycling facilities yet to date. So working with DTSC,
13 we tried to come up with the appropriate language here.
14 We're requiring that the recycler shred the device after
15 removing the mercury tube and circuit board, making sure
16 that those are exiting the system, and also record the
17 manufacture name, model, serial number, and weight. Some
18 stakeholders are concerned that that is a bit onerous.

19 What we have done here to try to address that
20 concern is express in another section, 18660.32, that we
21 are open to alternative methods of cancellation. There's
22 a possess for recyclers to submit a proposal for another
23 method, and then we would consult with DTSC and respond to
24 that proposal within 180 days.

25 We'd certainly want to provide flexibility and

1 allow for innovation here.

2 Okay. Sections 33, 34, and 35 really just review
3 those statewide standard rates. This talks about
4 cancellation, provides some examples of how to calculate
5 those standard rates.

6 --o0o--

7 MS. WILLD-WAGNER: Okay. The next section here
8 is moving towards manufacture reporting. And that's
9 really the other key topic in the regulation package.
10 And, again, talked about this before.

11 The bill requires that manufacturers report on
12 the four elements listed here on the slide: Sales data,
13 the amount of certain hazardous materials in the products,
14 recyclable content of the products manufactured, and
15 designed for recycling.

16 For sales data we have proposed that we receive
17 this data by both screen size and product category in
18 order to allow us to go back and do a check against the
19 revenue coming into the program, which is based on screen
20 size.

21 Material reporting is another one of these
22 examples that may need to be geared -- or comments may
23 need to be geared to legislative changes. The
24 stakeholders -- some stakeholders are requesting that we
25 only request reports on materials that are exempt from the

1 European Union directive, which was passed in 2003, on the
2 restriction of hazardous substances. You might have heard
3 about the Ross directive. This is the Ross directive.

4 In 2006, many of the materials -- on the
5 worldwide basis many of the products are going to be
6 designed without some of the materials you see up there,
7 the cadmium and hexavalent chrome. Some of these things
8 will be designed out by 2006.

9 So stakeholders have asked us to simply require
10 reporting on those that are exempt from this European
11 Union directive. We agree, but under the current law we
12 can't do that the way it is now. So we're requesting the
13 material reporting specifically as it is in the bill.

14 Now, there is strong stakeholder disagreement on
15 two different approaches, which is why we have put --
16 right in your regulations there are two different options.
17 The first option is non-italicized and discusses
18 individual manufacture reporting. And the second option
19 is all in italics in your regulations. And that is the
20 wording that would go in if you choose to have
21 collective -- it's a partial collective report. So let me
22 briefly go through what this would do.

23 In individual reporting each manufacturer would
24 reporter on all four of those elements above on an annual
25 basis to us. In partial collective reporting elements 1

1 and 2 listed up there, sales data and hazardous materials
2 reporting, would be submitted collectively either through
3 a group of manufacturers or a trade association; and
4 numbers 3 and 4 would be submitted individually.

5 The only way partial reporting -- partial
6 collective reporting could be acceptable for those first
7 two elements is if the report that's submitted to us also
8 identifies each manufacture that's contributing to the
9 report and each manufacturer certifies under penalty of
10 perjury that this information is true and correct, and
11 that additionally upon any request by the Board the
12 individual manufacturer would also have to provide a copy
13 of their individual report, individual information, and
14 supporting documentation.

15 Now, some -- I'll just real briefly go over some
16 pros and cons for collective reporting and individual
17 reporting.

18 Collective reporting we started discussing
19 because at the very beginning, clear back in October, many
20 of our engaged manufacturing stakeholders have told us
21 that sales data and materials information, that number 1
22 and 2 above, is confidential information, and they would
23 request that the Board go through a process to treat this
24 as confidential or proprietary information. That would
25 require of course Board determination and certain specific

1 processes involving a locked file room and secure file
2 room.

3 And if that sales data and materials data is
4 confidential, we would not be able to share it with the
5 public if it was submitted individually. However,
6 submitted collectively we could publish it in an aggregate
7 form, the total sales and total material submitted.

8 Pros for individual reporting are that individual
9 manufacturers are accountable for their activities, it
10 might provide incentives to increase the different
11 recycled content and design for recycling efforts, and it
12 allows comparison between manufacturers. That is, if the
13 data is not proprietary and we can be posted and provided
14 to the public.

15 Today we need you to make a decision on that part
16 of the regulations. We've left it as the two options.
17 And you'll hear from stakeholders and have an opportunity
18 to ask questions on that.

19 Article 4 is consumer information. And through
20 our workshops we have seen that there is some confusion
21 between the two parts of consumer information. Under the
22 law manufacturer's responsibility is delineated and
23 requires manufacturers to provide information to their
24 consumers on opportunities to return, recycle and
25 appropriately dispose of their electronic devices at the

1 end of their useful life.

2 In our regulations we have outlined that that
3 information should be provided in both English and Spanish
4 and that a copy of whatever information they give to their
5 consumers be given to us so we can see how they have
6 complied with this section. They can -- manufacturers can
7 do so either through an 800 call-free center, through the
8 website, or through material in packaging to the
9 consumers.

10 The second piece of consumer information and
11 education is really outside of the scope of this
12 regulation. So I don't want to spend much time on it, but
13 I want to -- since you discussed this last month, I wanted
14 to bring Chris Peck up here for a 60-second overview of
15 what he's done and what the efforts of the Board are on a
16 complementary front for this consumer education.

17 MR. PECK: Good afternoon, members. Shirley did
18 ask me to be brief. I don't think I can do this in 60
19 seconds.

20 The Office of Public Affairs has for the past few
21 weeks focused on the development of an outreach campaign
22 that will provide consistent public messaging about the
23 electronics recycling law. As you are aware, our strategy
24 is to partner with electronics retailers, who will be the
25 public face of this program for consumers. Retail

1 employees will be key spokespeople for the program.

2 At the Board meeting last month you allocated
3 \$200,000 to a scope of work for an electronics waste
4 education partnership and consumer awareness campaign. We
5 are currently working to get a contractor on board to
6 assist us in this effort.

7 Our contractor will develop a public service
8 advertising campaign, collateral print and related
9 retailer training materials. We will also be developing a
10 major media event to announce the program and follow-on
11 publicity. We envision a two-part roll-out for this
12 effort beginning both when the consumer -- goes into
13 effect and again during the holiday buying season when
14 most of these products are purchased.

15 We already have initiated development of a new
16 public domain website, where we will post information
17 developed for the campaign and which should also serve as
18 a focal point for all consumer-based information related
19 to the recycling initiative. We have secured the domain
20 name erecycle.org for this purpose and have plans to
21 solicit participation by manufacturers and electronics
22 retailers of these covered products to help us sustain
23 this site.

24 So that's my quick overview.

25 MS. WILLD-WAGNER: Good. Thanks.

1 We're down to the last final two -- final article
2 actually, is Article 5, confidential, proprietary and
3 trade secret. I've alluded to this in a couple of
4 different places.

5 Statute does require the Board to protect any
6 information which is proprietary in nature or a trade
7 secret. So in this article we describe the protections
8 for manufacturers. And basically we say that the process
9 that we'll follow would be existing regulations adopted by
10 the Board.

11 To wrap up, staff recommendation is that the
12 Board approve Option 1, to adopt this emergency regulation
13 package and support the finding of categorical exemption.

14 We also need you to make a decision on the
15 reporting, collective versus individual reporting. Then
16 staff would send the package forward to the Office of
17 Administrative Law. It's a five-day public comment period
18 at that point and ten days for the OAL to make a
19 determination on the emergency regulations.

20 Then we would move forward developing the program
21 materials and procedures and developing this program,
22 kicking it off the ground.

23 Now, as I said, our subject matter experts are
24 here to answer any of your questions.

25 And from here, anything you'd like.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you very
2 much.

3 Questions before we go to public comment?

4 Mr. Paparian.

5 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

6 And first of all I want to thank the staff for
7 just an incredible job that you've done in pulling
8 together this program and getting it to the point where it
9 is right now today before us.

10 And also I want to thank the DTSC folks I see in
11 the back of the room too for working closely with us and
12 putting this together.

13 I'll have some more comments later. But I just
14 wanted to clarify one thing, if I could. On the errata
15 sheet, the -- it was pointed out to me that the -- where
16 we had the feasibly recyclable, that now -- that may not
17 be as easily understood as it might be. And a suggestion
18 was made to perhaps change that to "is not economically
19 feasible to recycle." And I'm thinking that's just a
20 clarification that maybe makes it easier to understand, if
21 that's all right.

22 MS. WILLID-WAGNER: That's fine with us. And it's
23 in two places, Mr. Paparian. It's --

24 BOARD MEMBER PAPARIAN: Right.

25 Bob, did you follow me on that?

1 STAFF COUNSEL CONHEIM: Yeah, I did. And the
2 word "feasibly" is a change and "economically feasible"
3 would be a change. And all we have to do is get to the
4 point where you adopt specific language. So if a change
5 like that comes up in the course of this discussion,
6 because these are emergency regs we can make that change
7 as long as it's reasonably related to the item that was
8 noticed.

9 BOARD MEMBER PAPARIAN: Right. Okay.

10 And I'm thinking that perhaps -- go ahead -- we
11 might have some more substantive discussion about other
12 items later. But this is just a technical fix, I hope.

13 Thanks.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
15 Paparian, for pointing that out.

16 We're going to go to public speakers now.

17 Mark Murray, Californians Against Waste, followed
18 by Chuck White.

19 MR. MURRAY: Good morning -- good afternoon,
20 Madam Chair, members. Mark Murray with Californians
21 Against Waste.

22 And I'm going to -- I want to try and be brief.
23 I could spend my entire time up here really expressing my
24 appreciation to your staff for the work they've done in
25 terms of moving this process along, both your staff and

1 the DTSC staff, and, frankly, the cooperation that's
2 existed between those staff.

3 But I have a lot to say about that, but I'm not
4 going to do that right now. But understand I really do
5 appreciate all the time you've put into this.

6 I submitted a comment letter to you with about
7 five specific comments. In the scheme of things -- I want
8 to put that in context -- that means that 95 percent of
9 the stuff that's in here we're in agreement with. I think
10 that your staff again did a terrific job.

11 There were more than one way to write these, and
12 I have recognized that. With regard to the five specific
13 items that I've put forward, I really believe that I was
14 heard by your staff, I believe both in the workshops as
15 well as in conversations that I've had with the individual
16 staff. I think that they heard me in terms of where I was
17 coming from. And I think that we just have a disagreement
18 about some of the ways of doing it. But I can, frankly --
19 generally on many of those items, I can actually live with
20 that -- with those changes. But I just want to whip
21 through those five items, and you guys can then be the
22 judge of that.

23 I'm going to go in a slightly different order
24 than my letter did.

25 Number 1, in the limitations on the ability of

1 collectors and recyclers to charge a supplemental fee. I
2 understand what the objective here was, that there are
3 circumstances under which a collector and a recycler may
4 need to charge something for the services that they're
5 providing that is over and above the amount that they're
6 being reimbursed. We think that's important that that be
7 allowed to occur because there's going to be a specter of
8 recycling opportunity. I don't want to see, for example,
9 HP give up their program where people mail back devices.
10 The payment that they get from the State of California may
11 not be sufficient to cover the full cost of mailing back
12 those devices. So Hewlett-Packard, wanting to be a
13 recycler and participate in this program, may need to
14 continue to charge some amount of convenience fee to
15 consumers that want to have the ultimate convenience of
16 sticking it in a box and mailing it back to
17 Hewlett-Packard for recycling.

18 So I think that some of the paperwork that is
19 required of recyclers that want to charge that fee is
20 burdensome. And so that's the disagreement that I think I
21 may have with your staff on the regulations.

22 Again, these are emergency regulations. We can
23 live with them for some period of time and gain some
24 experience. But that's where my disagreement lies, is
25 that I felt that it was overly burdensome what your staff

1 was requiring.

2 In a similar vein, the staff is requiring that
3 recyclers maintain a fairly sophisticated listing of
4 information -- of accounting information about how much
5 the collection and recycling system is costing them. I
6 understand where they're coming from, that they would like
7 to use that information for calculating future costs of
8 recycling. To me, that seems like an overly complicated,
9 burdensome, and ultimately potentially inaccurate way of
10 calculating the cost of recycling. But I think it's just
11 a disagreement that we have. There are different ways of
12 doing this.

13 I think that -- in talking with your staff, I
14 think we each come to this program with our own biases
15 based on other programs that we're familiar with. I
16 clearly come this with some bias towards how the beverage
17 container recycling program is operated. And I was
18 proposing something that uses more of an auditor approach.
19 I think your staff was concerned that maybe that was more
20 costly than the approach of asking everyone to provide
21 this cost data. I think I'm right, but I think that you
22 wouldn't be going wrong by moving forward their approach.
23 But I think it's something we're going to have to keep an
24 eye on over the experience with the program to see if
25 maybe that is overly burdensome and maybe not as accurate

1 as it could be.

2 So those are things that, you know, I don't think
3 they're ideal, but I think we can live with them. But
4 those were disagreements I had.

5 The third one I'm particularly concerned about,
6 and I think your staff believes this is the best way to
7 encourage recycling without having fraud in the program,
8 is the issue of reuse and whether or not we should be
9 making a payment to recyclers, a 20-cents-a-pound payment
10 to recyclers to be paid, reimbursing collectors for
11 devices that ultimately are reused. And obviously I think
12 all of us want to see as many of these devices reused as
13 possible.

14 Working in a similar vein on a cell phone
15 recycling bill, where we believe that the reuse of cell
16 phones is actually going to finance the recycling of cell
17 phones, the ones that can't be reused, so that we actually
18 won't have to have a fee at all. So I think that reuse
19 needs to be a very high priority.

20 Your staff believes that, based on testimony from
21 a number of folks, that the value of reuse will be so high
22 that recyclers will not only be able to pursue reuse
23 without getting reimbursed, but they'll actually be able
24 to reach in to their pocket and pass the 20 cents along on
25 to collectors from the profits they'll make on reuse.

1 I'm concerned that that may not be the case. And
2 I think that that's something, if you decide to go with
3 this approach, that we're going to have to keep an eye on,
4 because we don't want to discourage reuse, we don't want
5 to create an incentive for folks to crush the devices up
6 instead of passing them on for reuse.

7 So, again, I can live with the approach that your
8 staff has proposed. But I think this is something that
9 we're going to actually have to keep our eyes on over the
10 next several years, or months at least.

11 With regard -- this is something -- the next item
12 with regard to the fee start date and the payment start
13 date, it's not necessarily part of the regulations, but
14 it's something that is raised in the regulations with
15 regard to the dates. I understand that Senator Sher has
16 put on the table the notion of postponing for three months
17 the fee collection start date. But I don't believe that
18 that necessitates postponing the payment collection date,
19 the payment to recyclers.

20 Local governments and recyclers throughout the
21 state have made an investment in setting up collection
22 programs designed to start on July 1st, based on what it
23 says in the statute. We think there is -- we know that
24 you're going to have to borrow some money in order to make
25 the payments to recyclers whether the program starts on

1 July 1st or it starts on October 1st. So I don't think
2 it's an additional burden to say that we're going to start
3 making payments to recyclers for devices they collect on
4 and after July 1st.

5 That doesn't necessarily mean that we got to
6 start passing the money out on July 1st. But it does mean
7 that I think that we have to really fulfill the commitment
8 that the statute provides to make sure that collectors are
9 going to start getting money for the devices that they'd
10 collected starting July 1st. As you know, a lot of these
11 folks have been waiting for many years to start getting
12 paid for these devices. They've spent a lot of --
13 millions of dollars on setting up these collection
14 programs. And I don't want to see us postpone
15 unnecessarily that date for which they get reimbursed.

16 Finally, with regard to this manufacturer
17 reporting issue, my recommendation is just to scratch out
18 that option that's in italicized. I appreciate the
19 pressure that -- and the thoughtfulness your staff put
20 into at least providing the option that the other side
21 would like to see on this. But the whole purpose of the
22 reporting requirements was to really be a report card for
23 individual manufacturers, not a report card for the trade
24 association. Consumers don't buy things from trade
25 associations. They buy things from individual consumer

1 product companies. And what we want to have is
2 information from those consumer product companies in terms
3 of how much recycled content and how much hazardous
4 materials they're putting in their devices. And so we
5 think there needs to be individual reports for that
6 information.

7 And your staff is, I -- you know, again, I'm not
8 really clear what the recommendation is. They're
9 obviously -- by putting it in italicized I think they're
10 recognizing that there are two different paths to go. We
11 prefer what I am going to read into this as being the
12 staff recommendation of having the individual reporting
13 for this information.

14 And so, again, those are my comments on those
15 five items. Again, I think your staff has done a terrific
16 job of pulling this thing together.

17 I would note, among maybe the controversial items
18 that we are supporting is that the idea of having the
19 payments go to recyclers and then to collectors, again,
20 from my experience with the bottle and can recycling law,
21 that's the most efficient way of paying the funds out so
22 that you're not having to deal with every single
23 individual collector in the State of California.

24 I think that the language -- which I think may be
25 a little cumbersome. But the language that you've got in

1 there with regard to potential -- if folks want to charge
2 a fee over and above what they get reimbursed, I think
3 that language will protect collectors from being price
4 gouged by recyclers.

5 Number 1, I think the marketplace is going to
6 protect collectors. But I think that that fail-safe
7 language that you've got in there will help as well.

8 Thank you very much. And thank you for letting
9 me go first.

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

11 Any questions or comments for Mr. Murray
12 before -- in case he has to leave?

13 MR. MURRAY: I do.

14 Thanks a lot.

15 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you
16 for your comments.

17 Chuck White, Waste Management, followed by Jeff
18 Kuypers, Hewlett-Packard.

19 MR. WHITE: Thank you, Madam Chair, members of
20 the Board. Chuck White with Waste Management.

21 I likewise effusive in my praise for the staff
22 and the work that the Board and the Department of Toxics
23 have done to put together these regulation packages.
24 There was moments where I wasn't so confident it was going
25 to come together. But it looks like it has pretty well.

1 I think we have some concerns about the emergency
2 regulations. Ideally we'd like to see them fixed during
3 the emergency rulemaking process. But we certainly would
4 want to continue working with the Board and the staff for
5 the final rules that have to be adopted in about a year.

6 One of our -- and I did submit written comments.
7 I think I had about 20 different comments. I won't try to
8 go over all 20 today, just focus on a few that are of
9 particular concern to us. And one happens to be, as Mr.
10 Murray mentioned, the limitations on the ability of
11 collectors and recyclers to charge a supplemental fee.

12 The language that we're concerned about is the
13 apparent ability or intent of the staff to come in and
14 review the amount that's being charged and whether or not
15 that's reasonable; and if someone at the staff level
16 determines it to be unreasonable, somehow you might lose
17 your ability to participate in the program. And that's of
18 some -- considerable concern to -- you know, what will be
19 the basis for making these decisions?

20 The statute as we read it basically gives the
21 Board and the staff the authority to adjust the fee upward
22 and downward. And we certainly don't disagree that the
23 Board and the staff should have access to information to
24 be able to adjust that fee upward and downward. But we're
25 just -- we're likewise unclear that there really is the

1 authority to take away ability of someone to participate
2 in the program on the basis of how they are charging or
3 what the basis of a supplemental fee might be.

4 In fact SB 20 has specific language in the
5 bill -- it's Public Resources Code Section 42472 -- that
6 basically prohibits there being any regulation that could
7 affect a contract with a city or county or other public
8 agency, including any action related to fees for those
9 programs that might get charged to cover this. So there's
10 a potential conflict between the language of the
11 regulations that would allow you to go in and perhaps deny
12 someone's ability to operate. And the actual language of
13 the statute says you can't take any action that would
14 prevent a public services contract.

15 And so this is an issue that, you know, really
16 will play out depending on how the Board acts upon these
17 regulations in the future. And I would certainly hope you
18 could fix it now. But if not, then I think we need to
19 have some serious discussions during the course of the
20 final rulemaking before this -- before the final rule is
21 adopted.

22 One of the -- I haven't had a chance to look at
23 the errata sheet. But there seemed to be some discussion
24 about the word "feasible" or "economically recyclable"
25 related to whether or not you could dispose or discard of

1 some component of the E-waste. There's a -- it appears on
2 page 7, I believe, of the regulations where there's no
3 disposal, land or water, allowed for export or even
4 non-exported materials unless it's economically -- not
5 economically -- or not recyclable. And the question is:
6 What does not recyclable mean? And I certainly support
7 the idea of adding the word "not feasibly recyclable,"
8 which I believe is what is being proposed in the errata
9 sheet that I just had a chance to briefly look at.

10 The annual net cost report on page 10, there is
11 some concern. It doesn't have to be submitted every year.
12 It just only has to be submitted on request for the
13 previous year. The question is: How much time would you
14 have to prepare that? Would you get a request from the
15 Board on January 1 to submit one for the previous year?
16 There's nothing in the regs that specifies that. We would
17 assume you wouldn't. And it doesn't specify how much time
18 you'd have to actually pull the information together.
19 And, again, that would be -- it would be interesting to
20 see how that plays out.

21 There is a concern that this annual net cost
22 report is going to be tremendously burdensome to prepare
23 potentially, particularly if you've got an operation that
24 is part of a multiple activity operation. Say, you've got
25 a MRfing operation, you've got a household hazardous waste

1 collection, and you've got a certain portion as a drop-off
2 collection. How are you going to go through and segregate
3 the building costs, the personnel costs, the different
4 costs? And I may be Company A in green. And there may be
5 another Company B in blue or another Company C in red, all
6 of which are going to have different ways of allocating
7 the fixed costs, the personnel costs, the equipment costs
8 between the multiple activities, and it all won't be done
9 in the same way, and you'll be getting these different
10 reports from different people. And we're very much
11 concerned about how you're going to sift through all this
12 information to figure out, you know, number 1, which is
13 your primary charge, how you should adjust biannually the
14 fees. But then, secondly, you could even get in and
15 criticize people for any supplemental fees they might be
16 charging.

17 So there is this concern about how this is really
18 going to work.

19 The Department of Conservation in the Bottle Bill
20 Program, as I understand it, basically hires a third party
21 to go out. And that third party goes to Green Company A,
22 Blue Company B, Red Company C, but uses exactly the same
23 procedures for allocating the fixed costs, the equipment
24 costs, the personnel costs. But that won't happen under
25 this system, and there's really going to be a real problem

1 I think faced by the Board to sift through all this when
2 you're not having a single party preparing this same
3 information across different parties in exactly the same
4 fashion.

5 So I think there needs to be some further serious
6 consideration about how you're -- if you're really going
7 to get information that's going to be useful for your
8 primary charge.

9 And, finally, related to this issue is the issue
10 of confidentiality. If we're going to be submitting these
11 net cost reports, there has to be trade secret protection.
12 You have provided trade secret protection for the
13 manufacturers in submitting information.

14 Shirley's nodding her head at me. I didn't see
15 any provision in language in there.

16 So you're saying it's there?

17 MS. WILLD-WAGNER: Across for chapter.

18 MR. WHITE: Across for everything. Okay.

19 Well, then I'm -- I rest assured -- with the
20 assurance that there is a trade secret protection. And
21 I'll talk to the staff later to make sure that I
22 understand exactly where that is, because we would want to
23 make sure that any information we submitted of this nature
24 is fully proprietary and trade secret protected.

25 CHAIRPERSON MOULTON-PATTERSON: Would you like to

1 comment now, Mr. Conheim?

2 STAFF COUNSEL CONHEIM: Robert Conheim, staff
3 counsel.

4 Chuck, we did add language that would apply the
5 provision that was originally designated to protect
6 manufacturers' reports to all the other reporting that
7 we're asking for.

8 MR. WHITE: Okay. Good. I didn't pick up on
9 that.

10 The time frame was kind of compressed here a
11 little bit.

12 STAFF COUNSEL CONHEIM: We simply added the words
13 "disclosure of information submitted to the Board by a
14 collector, a recycler, or a manufacturer." And we
15 broadened the provision to respond to your concern.

16 MR. WHITE: Great. I appreciate that. Thank you
17 very much.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you.

19 MR. WHITE: I'm breathing more easily.

20 CHAIRPERSON MOULTON-PATTERSON: Do you have some
21 more, Mr. White?

22 MR. WHITE: A couple more points real quickly.

23 We're concerned about the difference in
24 verification of post-cancellation deposition of materials.
25 Ironically, when you were to cancel some material and ship

1 it overseas, the regulation allows you to use the bill of
2 lading when you first put it on the container that goes
3 overseas. But if you're going to be shipping the material
4 domestically, the regulations don't rely on the bill of
5 lading when you first put it on the shipping. They wait
6 for you to get confirmation that the person you're sending
7 it to has received it.

8 So in a sense, domestic handling of materials is
9 at a disadvantage in terms of processing the paperwork as
10 compared to shipping the materials overseas. Whereas the
11 shipping overseas you can base it on a bill of lading at
12 the time of shipment; domestic shipments have to wait for
13 the end party to verify that they actually received it.

14 I think I understand the reason for doing that.
15 I think you're worried about churn and possible materials
16 showing back up in the material stream. But it does put a
17 disadvantage in terms of processing the paperwork and
18 getting payment if you're doing it domestically rather
19 than overseas.

20 I'd like to find some other way you can get a
21 little quicker turnaround time on that, if not in these
22 regulations, in the final regs.

23 With respect to the cancellation of LCD monitors
24 and laptops, there's a concern that the only way you can
25 really demonstrate cancellation is to collect specific

1 information on the manufacturer serial number and model
2 type, and maintain this list -- presumably that the Board
3 staff is going to maintain this master list to make sure
4 this stuff doesn't reappear. There's got to be a better
5 way found to cancel this. I think the regulations provide
6 people to come up with alternative solutions. But there
7 is a 180-day period for approval. I would hope the people
8 would look very quickly at some other options to
9 demonstrate the LCD's can be cancelled.

10 My final comment to you -- well, excuse me, two
11 final comments. One is the cost of the collection
12 program, the 20 cents -- excuse me -- yeah, the 20 cents
13 per pound for collection will certainly cover the cost, we
14 believe, of drop-off collection programs. But it won't be
15 enough to collect -- provide for the collection programs
16 where you go door to door or curbside. There needs to be
17 a way found to provide supplemental payments to curbside
18 programs to support that kind of collection activity. We
19 think that the average curbside or collection program that
20 goes to the generator rather than the generator coming to
21 you would be on the order of about 25 cents per pound.
22 And there needs to be a way found to provide that
23 supplemental payment.

24 My final comment is on the appeal process in the
25 event that the Board or staff finds that you're in

1 violation of these regulations and, therefore, are no
2 longer eligible to participate. There's a whole range of
3 possible things you could do wrong in these regulations.
4 Some are really serious. Some are less serious.

5 The regulations appear to give the staff the
6 authority to make a decision to immediately terminate
7 someone's ability to participate in this program. Then
8 you have an ability to file an appeal, which is then heard
9 by the Executive Officer -- Executive Director, which is
10 then referred to the Board to make a final decision on
11 whether that appeal should be sustained or overturned.

12 The question is: How can they operate -- the
13 person continue to operate in this period? There's no
14 provision for a stay pending the outcome of the appeal.
15 Maybe certain things shouldn't be stayed. We're having
16 the same debate in the Legislature right now on the Reyes
17 bill. But the same issue pertains, is what's the due
18 process that's provided to somebody who's participated in
19 this program? Because you're not going to be at the
20 actual Board, not going to be before you folks on a
21 potential violation problem until after an appeal and it's
22 heard before the Executive Officer and gone up to the full
23 Board. The regulations appear to allow the staff to make
24 these decisions. And I've got the greatest confidence in
25 the staff. But sometimes people make mistakes. If a

1 legitimate mistake is made, someone's right to operate is
2 withdrawn, how does that person continue to operate
3 pending the outcome of a legitimate appeal that may in
4 fact sustain their concern that the original action was
5 invalid?

6 So I believe there needs to be some kind of
7 process of allowing the action to be stayed pending the
8 outcome of appeal, particularly if it's not in a
9 particularly egregious matter.

10 Those are my comments. The regulations, in
11 general, look good. But I think there needs to be a
12 little bit more work done. And we certainly look forward
13 to working with the staff and the Board to get these
14 issues taken care of.

15 Thank you.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
17 White.

18 Jeff Kuypers, Hewlett-Packard, followed by Sean
19 Edgar.

20 MR. KUYPERS: Good afternoon, Madam Chair and
21 members of the Board. My name is Jeff Kuypers and I'm
22 with Hewlett-Packard from the nearby Roseville recycling
23 facility that we have, which handles millions of pounds of
24 computer equipment each month.

25 HP is very interested in the implementation of SB

1 20 because it cuts across four areas for our business.

2 Not only as a manufacturer, but also as a retailer, a
3 collector, and a recycler.

4 We currently have over 100 employees that are
5 working in some capacity on compliance with SB 20. And
6 some of those employees have been involved in each one of
7 the workshops and also providing written comments to the
8 Board.

9 Our estimate is that by July of this year
10 assuming that's the implementation date for collecting
11 fees, that we will have spent in excess of \$3 million on
12 implementation and compliance with SB 20.

13 While a number of our comments were
14 implemented -- were accepted and implemented into the
15 draft regulations that you have before you, HP still has
16 some concerns that at least some of the regulations as
17 proposed may not be the most -- the effective and the
18 least impact approach to implementing the statute, as is
19 required under the Administrative Procedures Act and also
20 as called out in the Governor's executive order from last
21 November.

22 We, HP, want to be sure that you understand the
23 significant impact of some of the requirements in these
24 regulations in terms of new recordkeeping and new data
25 collection. Today I will discuss what the major points

1 are that HP has.

2 First of all, some of the regulations contain
3 some burdensome recordkeeping reporting requirements that
4 have not been demonstrated to be productive. Consider the
5 following:

6 A) A recycler is required to record the
7 manufacturer's name, model number, serial number, and
8 weight of each LCD device prior to processing.

9 HP is not aware of any specific system that is
10 proposed by which the Board would use such detailed
11 information to, for example, run database queries on
12 serial numbers perhaps in an attempt to identify any
13 fraud. And in lack of such a system to use this detailed
14 data, this recordkeeping is burdensome without an
15 appropriate benefit.

16 B) A second point in terms of the recordkeeping
17 reporting. The proposed regulations require manufacturers
18 to provide more detailed information about the composition
19 of products than is required in the statute.

20 The regulations require that manufacturers
21 provide both an estimated average amount of six different
22 materials as well as a range. The estimated average is
23 required in the statute and could be provided by
24 manufacturers -- could be determined by manufacturers
25 through testing, which would not be a trivial task.

1 But the range reporting is not required in the
2 statute. The range reporting could be useful to
3 manufacturers in some cases where they have established
4 already limits on suppliers for certain substances.

5 However, there are some cases, such as where
6 these limits only apply to specific components and
7 products, where the manufacturer to have complete data
8 would still have to conduct testing. And in order to come
9 up with a range, potentially could have to test every
10 product within the covered categories. This would be
11 extremely burdensome.

12 So what HP proposes is either to -- well, what HP
13 proposes is that the requirement as proposed in the
14 regulations be changed from a requirement to an option for
15 manufacturers.

16 A third point as far as recordkeeping reporting,
17 the regulations allow you to request some very detailed
18 information about the financial operations of recyclers
19 and collectors. And some of this information, to comply
20 recyclers and collectors would have to determine the
21 percentage of certain costs such as building maintenance,
22 insurance, taxes, property taxes, and other things that
23 have to determine the percentage that applies just to
24 their covered device operations as opposed to their total
25 recycling operations. And this would be a burden for all

1 collectors and recyclers, a significant burden.

2 One thing that HP proposed in our previous letter
3 was that this requirement either be made optional for
4 those parties that believe the fee is too high, such as it
5 might impact their consumers, or that they think the fee
6 should be higher to deliver a higher reimbursement to
7 recyclers and collectors.

8 Another option would be that if this report is
9 required, to only require it of those parties that choose
10 to charge an additional fee beyond what the Board is
11 reimbursing.

12 So we recommend that the mandatory provisions for
13 this net cost report either be eliminated or be made
14 required only of those parties that want to charge an
15 additional fee.

16 A second point I want to make is that the
17 proposed regulations contain some unreasonable enforcement
18 considerations in a couple of cases. One that I would
19 like to mention is that any person -- as it's stated in
20 the regulations right now, any person may be authorized by
21 the Board to conduct audits of approved collections --
22 sorry -- approved collectors and recyclers, which would
23 include being able to review cost data and how material is
24 processed.

25 Some of this information as well as some

1 recycling technology is considered proprietary or
2 confidential. And so the disclosure of this type of
3 information and the audits should be limited to the
4 greatest extent possible within the government. So HP
5 urges you to limit within the regulations the scope of the
6 people that are allowed to conduct the audits to just the
7 Integrated Waste Management Board or to appropriate
8 government agency employees.

9 And second on this particular point, in a number
10 of places in the regulations there are requirements that
11 estimates of information be provided with a certification
12 that the estimates are true, correct, and complete under
13 penalty of perjury.

14 There are a number of civil penalty enforcement
15 provisions in Article 5 of SB 20. And to the extent that
16 there are these additional requirements for certifications
17 under penalty of perjury for estimates, HP feels that this
18 is unreasonable and we would request the words "to the
19 best of the submitter's knowledge" be added.

20 Lastly, I would like to point out that SB 20 does
21 require manufacturers to communicate with consumers what
22 options are for recycling computer equipment.

23 As has been acknowledged in many of the
24 workshops, however, this type of information will be
25 collected by the Board. The Board will be authorizing or

1 approving of collectors and recyclers. And the Board will
2 be in the best position to be able to identify who is an
3 authorized collector or recycler.

4 So HP has recommended, and we'd recommend again
5 today, that the Board commit to providing a website that
6 the manufacturers can refer our consumers to to get the
7 latest, most up-to-date information about who is
8 authorized to provide collection or recycling services.

9 Just in closing then, HP requests that you would
10 make these changes and the changes submitted in our letter
11 prior to adopting these regulations.

12 I appreciate your time and consideration. And
13 I'm certainly open to any questions that you may have.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you very
15 much.

16 MR. KUYPERS: Thank you.

17 CHAIRPERSON MOULTON-PATTERSON: I don't see any
18 questions at this time.

19 MR. KUYPERS: Okay. Thank you.

20 CHAIRPERSON MOULTON-PATTERSON: Sean Edgar, CRRC,
21 followed by Thomas Hogue, United Datatech.

22 MR. EDGAR: Good afternoon, Madam Chair and Board
23 members. Sean Edgar on behalf of the California Refuse
24 Removal Council, a trade association of more than 100
25 authorized collectors providing curbside recycling service

1 to five and a half million Californians.

2 We're generally in support of the regulations.

3 We praise your staff for the yeoman's work they've been
4 doing.

5 We have one major concern that I wanted to
6 briefly address with you. And, that is, that there is no
7 guarantee of payment to the authorized collector under the
8 scheme that's proposed by staff. We need some sort of
9 mechanism, and we've suggested a couple of those. One, if
10 the -- as CAW indicated, and as your staff has indicated,
11 the preference for the recyclers paying the collectors.
12 And if the goal is to provide a consistent delivery of
13 service for both collection and recycling and if the
14 recyclers are the ones controlling the money, we feel that
15 there needs to be some sort of mechanism to ensure that
16 the collectors actually receive at the end of the day the
17 20 cents per pound that's called for in the regulation.

18 We suggested one mechanism would be bonding,
19 which, you know, for folks in the construction trades is
20 not that difficult to kind of an industry standard out
21 there.

22 We also felt the regulation needs to address a
23 mechanism that where the authorized recycler fails to make
24 payment to a collector, that the state or the program
25 would then step in to ensure the payment is made.

1 So we are in support and we love what you're
2 doing and hope to make these tweaks here in short order.

3 Thank you.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you for
5 your comments.

6 Thomas Hogye, United Datatech/ECS Refining.

7 Did I pronounce that right?

8 MR. HOGYE: Yes, you did.

9

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Good.

11 MR. HOGYE: May I have a stool?

12 Madam Chair, members of the Board, Mr. Leary.

13 Thank you for allowing me this opportunity to speak.

14 A couple years ago I got really depressed one
15 day, and I said to my wife, "I think I'm going to leave
16 this industry. I want to find something else to do. I
17 don't -- I'm just -- we're not doing it," you know. And
18 she said to me, "Why? You love what you do."

19 And over the last couple of months I've had a
20 rekindling of that love. I must admit that I've had a
21 great time coming up here. I've met a whole bunch of new
22 friends. This is a beautiful building and a beautiful
23 city. And, again, as everyone else has said, I really
24 applaud the Board for their work. It's amazing what
25 they've had to do and to bear with in the meetings as well

1 as, I'm sure, the comments off line.

2 And so, in essence of time -- because when I
3 usually talk we don't get out here till a long, long
4 time -- I wrote something. So if you'll allow me, I'd
5 like to try and read it on behalf of everyone.

6 For the last 24 years our company has provided
7 electronics recycling and recovery from Silicon Valley to
8 Fort Lauderdale for customers who wanted to make -- who
9 wanted the assurance that products were being managed
10 responsibly. At the same time these companies recognized
11 the financial and environmental repercussions of
12 irresponsible management if these materials ended up in a
13 landfill.

14 It has not been cheap to recycle CRT devices and
15 old electronics properly.

16 Gosh, I just realized I'm going to be 42 and I'm
17 going to -- I think I'm going to need new glasses.

18 All of us knew that CRT was the greatest
19 liability, containing the highest amount of potentially
20 hazardous materials, but that no E-waste should end up in
21 a landfill.

22 I personally worked very hard to convince the
23 public then that paying about 30 to 40 to 50 cents a pound
24 to properly recycle a CRT was the right thing to do
25 despite being allowed to landfill the materials. It look

1 time to teach them this isn't about soda cans or pop
2 bottles. It also took some convincing there.

3 I remember one company telling me that "As long
4 as the waste company allows me to put some in the
5 dumpster, I cannot reasonably expect to pay you to recycle
6 them." I remember him saying that "As long as they're
7 able to roll over them with the bulldozer and crush them
8 into landfill, I'm not going to pay you to recycle my
9 monitors."

10 Then there are the hundreds of scrap brokers
11 masquerading as a recycling company who will actually pay
12 you for your dead nonworking monitors, telling you, just
13 like the soda cans and pop bottles, they have value. Now,
14 as an employee you've discovered a new revenue stream for
15 recycling and you are now the department head.

16 Then the video came out. We wouldn't allow what
17 goes on in China to happen here, but we ship detriment and
18 death to them and then rush over to other countries as Red
19 Cross volunteers to try and save lives.

20 I'm excited. I personally had an opportunity to
21 meet Senator Byron Sher. And I don't get to meet too many
22 famous people. But I'm excited that Senator Byron Sher in
23 California has stepped up to the plate to lead our nation
24 and the world in recognizing the need for responsible
25 electronics recycling for the benefit of our environment

1 and the future of those living and working in this venue.

2 Women always wish they could blush as well as I
3 do.

4 We must move forward with the implementation of
5 SB 20 quickly and effectively. As Governor
6 Schwarzenegger said -- thank you, Shirley --

7 (Laughter.)

8 MR. HOGYE: -- failure is not an option. And if
9 SB 20 is a California law and funds are coming from
10 Californians, let's keep the jobs in California,
11 especially the processing jobs.

12 We must then begin educating the public with
13 regard to electronics practices, recycling practices in
14 their home, the local municipality, the manufacturing and
15 the corporate work place. We must define E-waste and
16 create a broader understanding of what it truly means to
17 recycle.

18 Is my time up yet? I'm almost done.

19 CHAIRPERSON MOULTON-PATTERSON: We'll give you
20 time.

21 MR. HOGYE: We need to hold recyclers accountable
22 for certain practices and processes in order to earn the
23 right to be called a recycler, and encourage a stewardship
24 of the land that makes us realize it might be okay to
25 spend 20 or 30 bucks to recycle my computer this week

1 instead of a pizza and a beer.

2 We need to keep the killing fields from being the
3 places where all E-waste, not just CRT's, is piling up in
4 developing countries. It's not just China. It's South
5 Africa, South America, India, Egypt, and every other
6 developing country in the world. We must establish sound
7 recycling, processing and smelting facilities that are
8 environmentally state of the art.

9 This is a new chapter to Earth Day. We can call
10 7/1/04 E-waste Independence Day.

11 Thank you.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you very
13 much for your comments. We appreciate them.

14 And the last speaker is Yvonne Hunter, League of
15 California Cities.

16 MS. HUNTER: Good afternoon, Madam Chair and
17 members.

18 Gee, it's official. I get the last word, at
19 least as a speaker.

20 A lot has been said about the great work of the
21 Waste Board staff and the DTSC staff. And I'd like to
22 repeat that as well. And also all the stakeholders. I
23 think this has been an exemplary process. It's something
24 the Waste Board in the what, 10 to 12 years since AB 939
25 has done very, very well. And for this one you all outdid

1 yourselves. So thank you very, very much.

2 The comments that we have suggested throughout
3 the process starting day one have been incorporated. And
4 in addition, the comments that we suggested for the
5 revised regulations have all been incorporated.

6 And I need to note that in putting together those
7 comments, I caucused with staff from L.A. County and
8 Sonoma County, who actually know how these programs
9 operate on the ground, and our suggestions were also
10 endorsed by RCRC.

11 I would like to ask or suggest one additional
12 minor technical fix. And I talked to Shirley about this.
13 And I think it's clarifying something that we had drafted
14 and the staff then redrafted. This is a further
15 refinement on the definition of reasonable efforts. And
16 you can find it on page 19. It's in the sort of top
17 middle of the page, where it says, "Reasonable efforts may
18 include but are not limited to..." We would suggest
19 adding -- after the words "may include" adding the phrase
20 "any of the following." And this is simply to clarify
21 what the intent is, that you don't have to do all of this,
22 you can do any of the following, and that is consistent
23 with the definition --

24 CHAIRPERSON MOULTON-PATTERSON: Which line is
25 that on?

1 MS. HUNTER: It doesn't have lines, but it's on
2 page 19. If you look at little C where it says,
3 "Reasonable efforts may include..." and then it has 1, 2,
4 3, 4, we suggest after "may include" add the words "any of
5 the following."

6 CHAIRPERSON MOULTON-PATTERSON: Okay.

7 MS. WILLD-WAGNER: I believe, depending on which
8 copy you have, it might be on page 17 --

9 CHAIRPERSON MOULTON-PATTERSON: It's not on mine.

10 MS. HUNTER: Oh, sorry.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you.

12 MS. WILLD-WAGNER: I believe we're talking
13 Section 18660.20; is that correct, Yvonne, Subsection C?

14 MS. HUNTER: Yeah, correct.

15 MS. WILLD-WAGNER: And that's' at the bottom of
16 page 17 on the clean version that you probably have in
17 front of you, Madam Chair.

18 MS. HUNTER: I'm sorry. I was -- I was using the
19 strike-out version. My apologies.

20 The issue about charging fees that both I think
21 Chuck White and Mark Murray raised, I think they -- I
22 think everybody is on the same page. This is an issue
23 that we had raised a number of times. Clearly if the
24 services being provided goes beyond what the Board
25 envisioned in calculating the fee -- for example,

1 curbside. There are some cities that contract with their
2 waste hauler for a curbside E-waste collection. That
3 ought to be able to be where you charge a fee. And that
4 is specifically envisioned in the language that is in SB
5 20 that we suggested to the author about involving
6 contracts and franchises. So we're very happy with that
7 language.

8 And also the issue that has been discussed
9 several times -- we sort of called it anti-gouging
10 language. That is something that we were very concerned
11 about given the direction of the regulations and the
12 process to provide that the collector gets paid by the
13 recycler. We understand and appreciate why that has been
14 decided. We are willing to go along with it. We've
15 worked with your staff long and hard on that. And I think
16 it's a matter of process and ease of payment.

17 But a fallback or a safeguard on that is to make
18 sure that the recyclers -- and I don't in any way mean to
19 criticize any of the folks out here or listening that may
20 be very good recyclers. But there may be some that are
21 going to try to game the system and charge more. And we
22 think it's important that the regulations include, and we
23 think they do, adequate safeguards for the Waste Board to
24 monitor that and for someone to have their authorization
25 yanked or at least audited if there are problems. We're

1 pleased to hear Shirley's comment that this is an ongoing
2 process and you will be monitoring how this is working.
3 This is brand new for everyone, and there may be
4 unanticipated glitches. And we're pleased to hear what we
5 thought the Waste Board would do anyway and, that is, to
6 keep an open mind and to tweak it along the way.

7 So in conclusion let me just add to what everyone
8 else has said. This is truly exciting. This is a
9 pioneering effort. I don't think there has been anything
10 as groundbreaking and pioneering in California, certainly
11 at the Waste Board, since the adoption of the AB 939 regs.
12 So congratulations to the Board, congratulations to all of
13 us. And the League stands ready to help in any way to get
14 the word out to cities on how this is going to be
15 implemented.

16 Thank you very much.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
18 Hunter. And when you say the League, I understand that
19 the rural cities and counties are supportive of the entire
20 package and followed your lead, is that right?

21 MS. HUNTER: Yes, yes.

22 CHAIRPERSON MOULTON-PATTERSON: I just wanted to
23 make that clear.

24 Thank you. Thanks very much.

25 Okay. Well, you guys have done a terrific job,

1 really terrific. And of course Mr. Paparian has his staff
2 have worked countless hours on this. And it sounds like a
3 really good start.

4 Did you have any comments right now, Mr.
5 Paparian? Or anything you wanted to add?

6 BOARD MEMBER PAPARIAN: No, I would just be
7 curious at the right point whether staff has any response
8 to anything that they heard, whether they would want to
9 make any alterations or whether they're comfortable with
10 things as they are.

11 MS. WILLD-WAGNER: We would certainly support the
12 addition of the wording that Yvonne Hunter just presented
13 on the --

14 CHAIRPERSON MOULTON-PATTERSON: Page 17?

15 MS. WILLD-WAGNER: Right, page 17.

16 And I did make a note of a few of the questions
17 that you might like some specific answers. And I sort of
18 wrote here some ideas for the team on who should be the
19 appropriate one to respond if you wanted any of those
20 answers. For instance, from Mr. Conheim on the penalty of
21 perjury clause at the appeals process or the guaranty of
22 payments. We're just ready to respond to any of those in
23 particular if you would like any of those issues answered
24 or further explanations on the payments incentivizing
25 reuse and some of those other issues. It depends on if

1 you'd like to hear --

2 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

3 BOARD MEMBER PEACE: Thank you. Yes, I do have
4 some questions on when it comes to payments.

5 Mark Murray from California Against Waste made a
6 comment that we should maybe start making payments whether
7 retroactive or not on items collected starting July 1st
8 instead of October 1st.

9 I guess my main concern is how people might be
10 stockpiling computers waiting for this to take effect.
11 Obviously you've thought about that too. How are you
12 handling that?

13 MS. WILLD-WAGNER: The wording that we have in
14 the proposed regulations now does call for a certification
15 that the material was collected after the start effective
16 date of the program. So it's, again, a certification.
17 We -- DTSC will be doing inspections of the recycling
18 facilities, so they'll be able to get a little bit of a
19 stance on -- a feel for how much material is in there.

20 But I -- John, do you have anything to add?

21 MR. HUNTS: John Hunts, the Waste Board.

22 We put in the regs the provision that materials
23 generated as waste collected prior to the start date would
24 not be eligible for payment, out of consideration for the
25 fact that -- money, that we don't know when the money's

1 going to be available, how much money's going to be
2 available; that there are processes and programs in place
3 now to accept, process, recycle these materials; and that
4 until we have an established "go" date for the program,
5 that, as Ms. Peace suggested, unscrupulous parties could
6 engage in speculative activities, bring materials in from
7 out of state, have collected materials and charging the
8 generator for their handling and then simply hold on to
9 them awaiting payment from the state.

10 So the most equitable approach is simply to say
11 those materials that are generated as waste after the "go"
12 date of the program is what's in and those generated as
13 waste prior to that are out.

14 BOARD MEMBER PEACE: You know, that makes sense.
15 But I mean to certify that, how hard is that going to be?

16 MR. HUNTS: Well, the recordkeeping that's
17 required by the collector -- collectors are required to
18 track where materials come from, who the generator is,
19 when they were received. And that information needs to
20 get passed along to the recycler. So we'll have access to
21 that information.

22 BOARD MEMBER PEACE: Okay. Thank you.

23 CHAIRPERSON MOULTON-PATTERSON: Is that it, Ms.
24 Peace?

25 BOARD MEMBER PEACE: I had another question.

1 Say I have a computer. How do I know where to
2 take it when I want to recycle it? Is that going to be --
3 I think they discussed that on a web page. And is that
4 something that's done by the manufacturer or something
5 that's done by the Board? Are they tied together?

6 MR. HUNTS: Well, as Shirley mentioned, there's
7 two approaches here. One is the statutorily mandated
8 requirement on manufacturers to provide consumer
9 information on when and where and how they can
10 appropriately deal with devices at the end of their useful
11 life.

12 Separate from that --

13 BOARD MEMBER PEACE: Now, is that going to be
14 hard for manufacturers, when you consider every
15 jurisdiction could be different?

16 MR. HUNTS: Clearly it would be a challenge.

17 As Chris Peck covered and as the Board is already
18 providing, we have the electronic product management
19 directory through the Board's website that lists all known
20 opportunities -- all the opportunities known by the Waste
21 Board for consumers to find a place to safely and
22 conveniently dispose or recycle their devices.

23 As one or two of the stakeholders pointed out,
24 information will be coming in to the Board from collectors
25 and recyclers. We'll know who they are. Since we are not

1 dictating which customer groups those collectors and
2 recyclers must deal with, we'll have to work with them on
3 whether or not they want that information presented to the
4 public or how they would want that information presented
5 to the public. Not every collector is going to accept a
6 monitor or an old television from somebody you walks in
7 off the street. We're not dictating business practices
8 here. But we will have a vast amount of information
9 available.

10 I think it's important to note that that's a
11 separate and parallel service that the Board has always
12 provided and would intend to provide -- I think some
13 stakeholders use the word "commit" to provide. The Board
14 will clearly do what we can do in terms of providing
15 information.

16 The statute has a requirement for manufacturers
17 to provide information. We don't want to regulate
18 ourselves into a corner not knowing what the future holds
19 in terms of our resources to provide information.

20 BOARD MEMBER PEACE: Okay.

21 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,
22 Ms. Peace.

23 Again, I've heard nothing but really positive
24 things from stakeholders about this team. You really have
25 done an exceptional job. And, Shirley, with your

1 leadership it's really been great.

2 My understanding -- and correct me if I'm
3 wrong -- is that, you know, since these are emergency
4 regs, they -- as we go along, if we find problems, they
5 can be amended or changed. Is that correct?

6 MS. WILLD-WAGNER: Yes, absolutely.

7 Bob.

8 STAFF COUNSEL CONHEIM: Yes.

9 (Laughter.)

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

11 Mr. Paparian.

12 Did you want to add to that?

13 STAFF COUNSEL CONHEIM: Unaccustomed as I am to
14 making very few words in a speech, I will limit it to just
15 that one word. Thank you.

16 (Laughter.)

17 CHAIRPERSON MOULTON-PATTERSON: Okay. That's
18 fine with me. Thank you.

19 Oh, Carl. Mr. Washington.

20 BOARD MEMBER WASHINGTON: Yes, thank you, Madam
21 Chair.

22 Ms. Willd-Wagner, in terms of these emergency
23 regs, how long do we expect these to be in place before we
24 have permanent regs structured?

25 MS. WILLD-WAGNER: We have the authority for two

1 years. But we -- as I mentioned at the beginning, we will
2 certainly be adjusting different parts of them, bringing
3 them back to you, especially based on what might be in SB
4 50, any changes in the legislation.

5 BOARD MEMBER WASHINGTON: And I remember the
6 issue came up about the receipt for payments. Will it be
7 the recyclers or has that been -- will the emergency regs
8 have the recyclers collecting the payments?

9 MS. WILLED-WAGNER: The emergency regs have the
10 Board paying the recyclers, who are then required to pass
11 on the 20 cents to the collector, yes.

12 BOARD MEMBER WASHINGTON: All right. Thank you.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr.
14 Paparian.

15 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam
16 Chair.

17 I already, you know, gave my appreciation to the
18 staff. But just to reemphasize it, Ms. Willed-Wagner and
19 the staff, you've just done a fabulous job.

20 The comments that came up today, there are --
21 there were some very important comments that came up, and
22 I don't want to dismiss those at all. I think that CAW,
23 Hewlett-Packard, Waste Management, and the others brought
24 up some very important points that we need to consider as
25 we move forward with the program.

1 But I think that if we were to try to tinker with
2 the language today, we would potentially get into some
3 unexpected problems. I think we need to talk about some
4 of these issues over the next few months. The next time
5 we have the opportunity to amend or add to the emergency
6 regs I think would be the appropriate time to revisit some
7 of these issues and provide some of the clarifications or
8 additions that some of the interested parties suggested.
9 And that in the interim that we would have the opportunity
10 to discuss those issues and discuss some of the
11 ramifications.

12 So I'm prepared to move the package as is, with
13 the non-italicized version. So with that I would like to
14 move Resolution 2004-101.

15 STAFF COUNSEL CONHEIM: Madam Chair. Bon
16 Conheim.

17 CHAIRPERSON MOULTON-PATTERSON: Yes.

18 STAFF COUNSEL CONHEIM: As a point of
19 clarification as you move the motion, I want to point out
20 that part of the motion is to adopt a categorical
21 exemption to CEQA, the California Environmental Quality
22 Act, and the statement that is in the resolution. But
23 it's important that we acknowledge on the record that
24 we're doing that -- it's a categorical exemption that
25 applies to these kinds of administrative processes that

1 are an action that an agency takes for the improvement of
2 the environment. And I don't think anybody can argue that
3 this is heading us in that direction.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you for
5 pointing that out.

6 STAFF COUNSEL CONHEIM: So I just wanted it on
7 the record and wanted us to discuss it if we wanted to,
8 that that's also part of the motion.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
10 Do we have a second?

11 BOARD MEMBER PEACE: Second.

12 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
13 motion by Mr. Paparian, seconded by Ms. Peace, to approve
14 Resolution 2004-101.

15 Please call the roll.

16 SECRETARY WADDELL: Paparian?

17 BOARD MEMBER PAPARIAN: Aye.

18 SECRETARY WADDELL: Peace?

19 BOARD MEMBER PEACE: Aye.

20 SECRETARY WADDELL: Washington?

21 BOARD MEMBER WASHINGTON: Aye.

22 SECRETARY WADDELL: Moulton-Patterson?

23 CHAIRPERSON MOULTON-PATTERSON: Aye.

24 Okay. Before we move to the next item, I
25 understand that Dr. Barry Takalou would like to make a

1 brief comment on Item 15, which we're going to be
2 discussing tomorrow. And I think he's unable to be here.

3 So, Dr. Takalou, would you like to come forward.

4 Good afternoon.

5 DR. TAKALOU: Good afternoon, Madam Chair,
6 members of the Board. I'm Barry Takalou, President of CRM
7 Company. I also am the Chairman of the Rubber Asphalt
8 Committee for California Asphalt Pavement Association.

9 Item 15 deals with evaluation of the southern
10 California and northern California RAC centers. For the
11 past couple of years working directly with these centers I
12 found them very effective and they provided quite a bit of
13 good technical -- technology transfer to cities and
14 counties as well as to the industry.

15 However, the comment I'm making today is in
16 regard of duplication of the efforts between southern
17 California and northern California as well as the grants
18 are given to CalTrans. You finding majority of these
19 efforts recently be getting a duplication of efforts. For
20 example, southern California developed construction
21 guidelines for rubberized asphalt. And my understanding
22 is now CalTrans going to hire the same contractor to write
23 another construction guidelines.

24 And there's only one way you can construct
25 rubberized asphalt. So we're finding quite a bit of

1 duplication of efforts. And my recommendation and our
2 California Asphalt Pavement Association recommendation is
3 to find a more coordinated effort, we can get these
4 programs work together, and In point of communication
5 between southern California, center northern California
6 center, as well as CalTrans. There's only one way of
7 constructing asphalt rubber. And I think we can get the
8 program more effective.

9 And that's my comment.

10 Thank you, Madam Chair.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you very
12 much. I appreciate your comments. I know we all do.

13 Any comments?

14 Okay. We'll discuss that further tomorrow.

15 Okay. We still have quite a few items to go
16 today. So let's go right on to number 7.

17 And, Mr. Schiavo, oh you'll be presenting this?

18 We'll give you a chance to get your group up
19 here.

20 DEPUTY DIRECTOR SCHIAVO: Yes, hit the ground
21 here.

22 Pat Schiavo, Diversion Planning and Local
23 Assistance Division.

24 And Item No. 7 is consideration of action for
25 noncompliance of Public Resources Code Section 42926. And

1 right now you have a listing of a number of state
2 agencies.

3 But Trevor O'Shaughnessy, who will be presenting
4 this item, will update you regarding the status of these
5 state agencies.

6 MR. O'SHAUGHNESSY: Good afternoon, Chair and
7 members of the Board. My name is Trevor O'Shaughnessy,
8 the State Organization Facility section. And as part of
9 my presentation I'd like to provide an update as to the
10 status of this item.

11 Staff is recommending that the Board take no
12 action on the following state agencies and facilities:

13 The California Department of Child Support
14 Services. They have submitted information that supports
15 their claim that they are in compliance with AB 75 and are
16 meeting the 25 percent diversion mandate.

17 R.A. McGee Correctional Training Senator has also
18 submitted supporting documentation and information that
19 supports their claim that they're in compliance with AB 75
20 and the 25 percent diversion mandate.

21 California Department of Food and Agriculture has
22 submitted an annual report, which was part of the action
23 that they did not do that. They have submitted their
24 annual report to put them in compliance with Public
25 Resource Code Section 42926(a). They have also opened up

1 their lines of communication with the Board staff, which
2 has allowed us to communicate clearly with them an
3 understanding of their submitted report. Staff is
4 currently going through an evaluation to determine the
5 accuracy of their numbers and to determine if any further
6 action is necessary.

7 The Department of Personnel Administration has
8 submitted updated information with regards to both their
9 disposal and diversion numbers, as well as opened up the
10 lines of communication with not only their recycling
11 coordinator but their management staff as well. Staff is
12 continuing to work with this department to determine the
13 accuracy of their numbers and to determine if any further
14 action is necessary.

15 Finally, the 46th District Agriculture
16 Association, the San Bernardino Valley College, and the
17 Veterans Home of Barstow have been very cooperative with
18 the Board staff. At no time have they not agreed with the
19 fact that they did not meet the 25 percent diversion
20 mandate. But they are outlining and are developing plans
21 of correction with Board staff to identify activities and
22 programs to assure achievement with the 50 percent
23 diversion mandate of 2004. Based on this, staff is
24 recommending that they be pulled from this item before you
25 today.

1 Staff will be providing an update to you next
2 month as to the status of the agencies and facilities that
3 were just mentioned.

4 CHAIRPERSON MOULTON-PATTERSON: Did you
5 mention -- did you say Santa Ana College was one of those?

6 MR. O'SHAUGHNESSY: No, ma'am, I did not. That
7 would be the rest of the presentation if there's no other
8 questions about the other agencies and facilities that
9 were just outlined.

10 BOARD MEMBER PEACE: So Santa Ana is the only one
11 left on the list?

12 MR. O'SHAUGHNESSY: That is correct.

13 BOARD MEMBER PEACE: All the other ones have been
14 taken off?

15 MR. O'SHAUGHNESSY: Yes.

16 CHAIRPERSON MOULTON-PATTERSON: I'd love -- have
17 two friends that are members of that board. And I'm just
18 wondering if their board of trustees knows that they're
19 the only ones in the state.

20 MR. O'SHAUGHNESSY: Well, hopefully through my
21 presentation I'll outline what we as Board staff have been
22 doing to do our best. And we have been treating them the
23 same as we have with all the other entities that have
24 already been outlined to you. And staff has been very
25 diligent.

1 So with that I will continue on with my
2 presentation. Very brief history.

3 The State Agency Integrated Waste Management Plan
4 Act, AB 75, requires all state agencies and facilities to
5 meet a waste diversion goal of 25 percent by January 1st,
6 2002, and 50 percent by January 1st, 2004. To disclose
7 how these goals are met the law requires the submittal of
8 an annual report each year by April 1st denoting the
9 progress made towards achieving the goals. The 2002
10 annual report was due April 1st of 2003.

11 In regards to Santa Ana College, one of the
12 concerns staff has had with regards to Santa Ana College
13 has been the lack of communication between the college and
14 Board staff. Staff would like to acknowledge that we did
15 receive a phone call last night at 10:15 p.m. stating that
16 supporting documentation would be forthcoming. As of the
17 beginning of this meeting -- in fact staff just walked in
18 and told me that no phone calls, E-mails or FAXes have
19 been received directed towards myself, the staff member in
20 charge, or Pat Schiavo. So we have not received anything
21 other than that that one phone call at 10:15 last night.

22 With that, staff is recommending that the Board
23 consider taking action against Santa Ana College. Santa
24 Ana College did submit their 2002 annual report April 7th
25 of 2003. The report reflected an overall diversion rate

1 of 50 percent. Staff attempted contacting Santa Ana
2 College as recently as today to clarify their reported
3 information because the amounts diverted and the amounts
4 disposed are exact down to the decimal point. This is
5 very unusual for this type of facility, let alone any of
6 the other 416 annual reports that were received for this
7 reporting year.

8 Without supporting statements or documentation to
9 support their annual report, staff is not able to
10 recommend compliance with the 25 percent diversion
11 mandate.

12 Based on the above information staff recommends
13 that the Board, per its recommendation in the item, direct
14 staff to develop a letter for the Legislature and
15 Governor's Office, signed by the Board's Chair,
16 recommending that Santa Ana College -- or notifying that
17 Santa Ana College is not in compliance with the 25 percent
18 diversion mandate, and request Santa Ana college to
19 develop a plan of correction on or before June 2004.

20 This concludes my presentation. Staff is
21 available to address any questions you may have.

22 CHAIRPERSON MOULTON-PATTERSON: Who's your
23 contact person at Santa Ana College?

24 MR. CHANEY: Good afternoon, Madam Chair. Al
25 Chaney, the staff liaison working with Santa Ana College.

1 The contact person that I'm working with there at
2 Santa Ana College is the Director of Maintenance. His
3 name is Bruce Brumberger.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.

5 Okay. I'll move this right now.

6 Is there any other discussion?

7 You know, I am -- I find it appalling that out of
8 all the agencies and different departments throughout the
9 State that we haven't gotten Santa Ana College to meet
10 this meager request. And I think -- you know, I mean
11 everybody else has.

12 And so, anyway, I would move it at this moment to
13 send the letter. But I just -- I'm really -- I am
14 curious, my own self, to know -- you know, I'm certain
15 that their board of trustees would be deeply ashamed that
16 they're the only ones, you know, on this list. And I just
17 wonder, you know, if they're -- I'm sure they have no
18 idea.

19 And so thank you for bringing this to our
20 attention.

21 I'd like to move approval of Resolution 2004-91.

22 BOARD MEMBER PAPARIAN: I'll second it.

23 And just to clarify, Madam Chair, we have two
24 Resolution 2004-91's in front of us. This is the shorter
25 one, probably should have said revised --

1 DEPUTY DIRECTOR SCHIAVO: The shorter one should
2 have said revised --

3 BOARD MEMBER PAPARIAN: Referring just to Santa
4 Ana College.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. So then
6 with the "revised" on it.

7 Did you second it, Mike?

8 BOARD MEMBER PAPARIAN: Yes.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. So we have
10 a motion by Moulton-Patterson, seconded by Paparian.

11 Without objection, please substitute the previous
12 roll call.

13 Thank you.

14 Please get -- I want to personally sign that
15 letter, so please get it up to me.

16 Number 8.

17 DEPUTY DIRECTOR SCHIAVO: Okay. Number 8 is a
18 discussion of the 2003 school district waste reduction
19 survey findings and report.

20 And Chris Kinsella will present this item.

21 MS. KINSELLA: Good afternoon, Madam Chair,
22 members of the Board.

23 We have a PowerPoint presentation for you.

24 (Thereupon an overhead presentation was
25 Presented as follows.)

1 MS. KINSELLA: The School DEAL or School
2 Diversion Environmental Education Law, specifically PRC
3 Section 42646, specifies that by January 2004 the Board is
4 to evaluate the implementation of waste reduction programs
5 in the state schools.

6 The School DEAL further requires that if as a
7 result of this assessment the Board determines that less
8 than 75 percent of schools have implemented a waste
9 reduction program, it must recommend to the Legislature
10 those statutory changes needed to require schools to
11 implement such programs.

12 --o0o--

13 MS. KINSELLA: To implement the statute, staff
14 conducted an electronic survey as the method of evaluation
15 for 2003. A copy of the survey tool is provided as
16 Appendix C in final report. Letters were mailed to every
17 superintendent in the state, which contained a user name,
18 password and link to the survey on our website.

19 Every superintendent in the state also received
20 an E-mail announcement regarding the survey through the
21 California Department of Education's electronic
22 newsletter.

23 School districts are not required to complete the
24 survey, so their participation is completely voluntary.

25 Staff made follow-up efforts to encourage

1 districts to participate via E-mail, articles and
2 newsletters, and by phone to achieve a hire response rate.
3 These efforts are enumerated in Table 1 of the final
4 report.

5 --o0o--

6 MS. KINSELLA: The Board achieved a 42 percent
7 response rate, which represents 55 percent of the total
8 schools and student enrollment. This is considered good
9 for a mail survey.

10 These responses, however, are not statistically
11 representative of all school districts statewide. As a
12 result it cannot be determined if 75 percent of schools
13 are participating in the some kind of waste reduction
14 program. Board staff have, however, provided a number of
15 short and long term recommendations that do not require
16 statutory changes.

17 --o0o--

18 MS. KINSELLA: I'd like to highlight some of the
19 results which showed three over our June theme.

20 The first, as demonstrated with the school
21 district diversion project of 2000, there's a continued
22 opportunity for the Board to promote district-wide program
23 implementation. For example, by incorporating recycling
24 activities into new or existing solid waste management
25 contracts. It's an efficient way and cost-effective way

1 to institutionalize such practices.

2 Second, we found that large and small school
3 districts implement different programs.

4 And, third, it appears there is a greater
5 percentage of school districts addressing the largest
6 waste types, paper, and organics, through waste prevention
7 activities.

8 --oOo--

9 MS. KINSELLA: The large and small school
10 district waste management program information is shown in
11 this graph, with small districts described as those with
12 less than 5,000 students, large districts are those with
13 over 5,000 students.

14 It appears that a larger percentage of -- that a
15 greater percentage of larger school districts implement
16 district-wide solid waste management programs. Although
17 large and small districts report having contracts for
18 solid waste pick up, both reported having a lower
19 percentage of contracts for the collection of recyclables.
20 Again, there is a continued opportunity to promote
21 district-wide program implementation.

22 --oOo--

23 MS. KINSELLA: This graph demonstrates how
24 buy-recycled activities relate to school district size.
25 Overall, a higher percentage of the larger districts

1 reported the purchase of recycled content products than
2 smaller districts. School districts do purchase a
3 significant amount of paper and other materials and have
4 the option to piggyback on to local and/or state
5 buy-recycled contracts to achieve potential cost savings.

6 --o0o--

7 MS. KINSELLA: This slide illustrates waste
8 prevention program implementation activities for largest
9 and smallest districts. A large percentage of school
10 districts reduce their paper and organic waste through
11 several waste prevention activities such as the use of
12 E-mail, electronic FAXes, double-side copying,
13 offer-versus-serve lunch program, and grass cycling.

14 Although not shown in this graph, a large number
15 of smaller school districts reported washing reusable
16 cafeteria trays and serviceware compared to larger
17 districts. This may be connected to the increasing
18 popularity of centralized food service systems as a viable
19 alternative for larger school districts with respect to
20 cost and labor efficiencies. Smaller districts are more
21 likely to have on-site kitchen facilities with the ability
22 to wash reusable materials.

23 --o0o--

24 MS. KINSELLA: As you can see in this slide, the
25 majority of reporting school districts recycle paper, the

1 largest component of the school waste stream.

2 When comparing the large and small school
3 districts, the largest school districts report a higher
4 level of participation in recycling all but 3 of the 20
5 materials included in the survey. These materials are
6 aluminum cans, plastic -- No. 1 plastic, and food scraps.
7 This may be related to a greater ability of larger
8 districts to generate and market larger volumes of
9 recyclables as well as closer proximity to recycling
10 markets.

11 Smaller districts reported the greatest
12 participation in aluminum cans and food scrap recycling.
13 These districts also reported the higher -- highest
14 participation in self-hauling recyclables to market
15 compared to districts in other enrollment categories.

16 Self-haul as well as food scrap recycling
17 requires increased coordination between program
18 participants and in many cases the assistance of
19 volunteers. Smaller school districts are more likely to
20 have volunteers to coordinate such activities. This is
21 supported by the higher percentage of larger districts
22 reporting barriers to implementing waste reduction
23 programs regarding motivating staff, faculty or students
24 and meeting resistance to change. This is reflected later
25 in the barrier slide.

1 --o0o--

2 MS. KINSELLA: This slide demonstrates a
3 difference in implementation by district size and a
4 potential shift in organic materials management. A
5 greater percentage of smaller districts reported
6 implementing each of the composting activities included in
7 the survey, with the exception of landscape trimmings.
8 Since organic waste is the second largest component of the
9 school waste stream, Board staff will further analyze the
10 survey data to assess whether the lower implementation
11 rates for composting activities and higher rates for waste
12 prevention programs such as grass cycling and offer versus
13 serve as a means of addressing food scraps may relate to a
14 movement in material management towards waste prevention.

15 --o0o--

16 MS. KINSELLA: Barriers also relate to the size
17 of the school district. The larger the school district,
18 the more barriers reported.

19 The large school districts reported having the
20 highest percentage of barriers relating to motivating,
21 meeting resistance to change, and training staff, faculty
22 or students about waste reduction programs when compared
23 to small districts.

24 Large districts also reported the highest
25 percentage of barriers relating to on-site collection,

1 sanitation or safety concerns, and funding or startup
2 costs. This may be due to the increased complexity of the
3 large districts with respect to coordinating large numbers
4 of people.

5 Smaller districts reported having a highest rate
6 of barriers relating to transportation of recycled
7 materials to market and lack of recycling markets compared
8 to larger districts.

9 Board staff will further analyze the reported
10 barriers to customize tools and other resources that can
11 assist school districts in addressing and overcoming such
12 challenges.

13 --oOo--

14 MS. KINSELLA: Based on the survey results, staff
15 prepared a number of short and long term recommendations.
16 Soon the survey results will be published on the Board's
17 School Waste Management, Education, and Assistance
18 website, which will include the final report, individual
19 survey data, various reports by program, school district
20 contact information. And staff will promote the survey
21 information tools to local jurisdictions and school
22 districts through the Board's Info-cycling newsletter, the
23 Board's Environment Matters newsletter, which is sent to
24 school districts and educators, and through articles and
25 school-related publications.

1 --o0o--

2 MS. KINSELLA: Staff have distributed survey
3 findings to the sustainable building section, the Office
4 of Education and the Environment as well the Buy-recycled
5 Section staff, and will continue to coordinate outreach
6 efforts with them.

7 --o0o--

8 MS. KINSELLA: With organic waste as the second
9 largest component of the school waste stream, Board staff
10 will follow up on the low reported composting rates and
11 food waste diversion activities. To facilitate
12 district-wide program implementation within school
13 districts, staff will continue to promote the Board's
14 School Waste Management, Education and Assistance website.

15 --o0o--

16 MS. KINSELLA: Staff will assist local
17 jurisdictions for school districts reporting the minimal
18 diversion programs, research districts' diversion trends
19 such as shift and materials management, and modify the
20 Board's assistance resources to address changing needs as
21 well as develop models.

22 Staff will continue to partner with the school
23 district professional organizations to promote the
24 implementation of institutionalized school district waste
25 reduction programs and highlight the Board's web-based

1 tools and resources.

2 --o0o--

3 MS. KINSELLA: By listening to stakeholders'
4 feedback and researching the potential materials
5 management trends, we will modify future surveys to
6 address any changing needs.

7 Okay. I'm sorry.

8 Questions? This concludes my presentation.

9 Are there any questions?

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
11 Just thank you for all your efforts with the school
12 districts.

13 And I understand, Mr. Schiavo, that you'll be
14 preparing a letter for me to send over to Senator
15 Torlakson on the progress?

16 Okay. Thank you very much.

17 I don't see any questions.

18 Board Member Washington: I do.

19 CHAIRPERSON MOULTON-PATTERSON: Oh, I'm sorry. I
20 don't have my screen on. I have two questions.

21 Okay. Ms. Peace was first and then Mr.
22 Washington.

23 BOARD MEMBER PEACE: First, it's a shame that
24 schools are not mandated to participate in this study.

25 So I like the recommendations that you've made

1 for the in-house activities based on the survey results.

2 But I would like to see the Board, as Linda said,
3 recommend to Senator Torlakson and the leadership of both
4 houses in legislative language based on the results that
5 we do have. Because we obviously need to institutionalize
6 the diversion activities at schools.

7 The recommendations should include, one, a change
8 in the language. Current law says that each district may
9 coordinate with local jurisdictions to implement diversion
10 programs at schools. And I'd like to see that changed to
11 "shall coordinate" and that the coordination should
12 include having them purchase recycled content products and
13 other environmentally preferable products.

14 Second, I know local jurisdictions are already
15 required to report their progress in implementing
16 diversion programs in their annual report. I think we
17 should expand on that by requiring they are to
18 specifically report on how they are coordinating with
19 school districts.

20 And, finally, the Board should also be required
21 to conduct the survey on a regular basis, what, maybe
22 every two years or so; and based on what we find, should
23 be developing tools to assess the school district's waste
24 and diversion management needs. This could ultimately
25 help the school districts save money as well as help the

1 jurisdictions' diversion goals.

2 CHAIRPERSON MOULTON-PATTERSON: If I might just
3 make one comment.

4 Were you finished?

5 BOARD MEMBER PEACE: Yes.

6 CHAIRPERSON MOULTON-PATTERSON: You know,
7 although I agree with you and I think it should be and all
8 of that, the -- you know, I don't think this is likely to
9 happen because of, you know, the schools -- the
10 Legislature feels that the schools have enough mandates on
11 them right now. And I think we'd get terrific resistance.
12 But, you know, I don't know if you want to add to that.
13 You know, certainly we can try. But the -- you know,
14 there's a law that if you mandate anything, that you have
15 to put the money for the mandate to it. And I don't know
16 that, you know, we'd be willing to do that.

17 So, you know, I think before we send the letter
18 over, we need to think about it a little bit and talk
19 about it amongst ourselves.

20 BOARD MEMBER PEACE: Okay. We can discuss that
21 before the letter goes out.

22 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

23 Thank you, Ms. Peace.

24 Mr. Washington.

25 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

1 Yeah, I agree with Ms. Peace. And I certainly
2 agree with your comments, with a mandate comes costs. And
3 I think we can do it symbolically to raise the level of
4 this program. But in a time like this I doubt very
5 seriously we get legislation passed that put a mandate on
6 schools like that.

7 Not only what Madam Chair has just talked about,
8 but also with the no-child-left-behind program, where the
9 schools are already mandated to spend millions of dollars.
10 For a program like this I think it would -- it wouldn't
11 meet the standard of what the national
12 no-child-left-behind program would meet in terms of a
13 mandate. I do think the program should be given due
14 consideration.

15 I just had a question in terms of districts. How
16 many districts participate? We have a thousand school
17 districts in California. How many do we have that
18 participate -- that are participating now? I mean if you
19 don't know, that's fine. I just thought --

20 MS. KINSELLA: I believe our response rate was
21 412 --

22 BOARD MEMBER WASHINGTON: Four hundred twelve?

23 MS. KINSELLA: -- out of about a thousand. And
24 they after -- recently more have trickled in. They want
25 to participate.

1 CHAIRPERSON MOULTON-PATTERSON: That's great.

2 BOARD MEMBER WASHINGTON: Yeah. I thought you
3 were going to say 25 or something. That's great.

4 Yeah, okay. So -- wow, that's good.

5 Yeah, I just wanted to make that comment, because
6 I think it's critical. And if somehow we don't get the
7 mandate legislation, perhaps we can find another mechanism
8 to do whatever we can to try to squeeze these folks to
9 participate. And it might take a one on one going to the
10 superintendents around the state to see if we can get them
11 to participate. Maybe a letter from our Board or
12 something. Hopefully we can get something done because
13 it's a real good program.

14 CHAIRPERSON MOULTON-PATTERSON: And I see that
15 you're going to the school conferences with the business
16 officers and stuff. So you're really doing a great job on
17 that. Thank you very much.

18 I think at this time we'll take about a 10 minute
19 break.

20 (Thereupon a recess was taken.)

21 CHAIRPERSON MOULTON-PATTERSON: We have a lot to
22 cover this evening. So I'd like to get started.

23 Any ex partes, Ms. Peace?

24 BOARD MEMBER PEACE: I'm up to date.

25 CHAIRPERSON MOULTON-PATTERSON: I'm up to date.

1 Mr. Paparian?

2 BOARD MEMBER PAPARIAN: Up to date.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington?

4 BOARD MEMBER WASHINGTON: To Peggy, Kathy --

5 (Laughter.)

6 BOARD MEMBER WASHINGTON: I'm up to date.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. Great.

8 Okay. Mr. Paparian.

9 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam
10 Chair.

11 In my excitement about the electronic waste
12 regulations, I think I misstated what was meant to be a
13 consensus for the Board on the resolution.

14 So when I said the non-italicized version, what I
15 should have said was the non-strikeout version that some
16 people were referring to, but the version that we --
17 rather the version we had in our notebooks. So what I
18 would like to do to fix that -- I consulted with our
19 attorneys over the break -- is have a motion to
20 reconsider, and then I'll put forward a motion that would
21 include the correct version to vote on.

22 So I'd like to move to reconsider Agenda Item 10,
23 Resolution 2004-101.

24 CHAIRPERSON MOULTON-PATTERSON: Second.

25 Please call the roll for reconsideration.

1 CHIEF COUNSEL CARTER: Excuse me, Madam Chair.

2 CHAIRPERSON MOULTON-PATTERSON: Or do we do that?

3 CHIEF COUNSEL CARTER: I just wanted to clarify
4 exactly what was in the motion. Did we include the
5 errata?

6 BOARD MEMBER PAPARIAN: I've not made the motion
7 on the actual item yet.

8 First, as I'm understanding it, we need to
9 reconsider the action we took earlier. So I'm moving to
10 reconsider our vote on Resolution 2004-101. And then I'll
11 make a motion to adopt.

12 CHIEF COUNSEL CARTER: Yes. Thank you.

13 CHAIRPERSON MOULTON-PATTERSON: Yeah, please call
14 the roll on the reconsideration.

15 SECRETARY WADDELL: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 SECRETARY WADDELL: Peace?

18 BOARD MEMBER PEACE: Aye.

19 SECRETARY WADDELL: Washington?

20 BOARD MEMBER WASHINGTON: Aye.

21 SECRETARY WADDELL: Moulton-Patterson?

22 CHAIRPERSON MOULTON-PATTERSON: Aye.

23 Okay. Mr. Paparian.

24 BOARD MEMBER PAPARIAN: So now I should make the
25 motion -- okay -- the motion to adopt Resolution 2004-101.

1 And it's meant to be the version in our notebooks,
2 including the italics, and also including what we
3 discussed in the errata sheets, the economic feasibility
4 and -- there was one other item. Maybe staff can help me,
5 make sure we're clear on what we're -- yeah, go ahead.

6 MS. WILLD-WAGNER: Excuse me. "Reasonable
7 efforts could be any of the following:" And that page 17.
8 That was the Yvonne Hunter edition.

9 BOARD MEMBER PAPARIAN: Right. So with those
10 clarifications on language, with the understanding on CEQA
11 that we discussed earlier.

12 Anything else?

13 STAFF COUNSEL CONHEIM: The only thing that I
14 would like to do just for the record -- I think we all
15 know what it is -- is that with regard to what Shirley
16 just said, I'd like to specify the regulation number,
17 because that was something that Yvonne discussed and it's
18 not written on the errata sheet.

19 MS. WILLD-WAGNER: That would be Section
20 18660.20(c).

21 STAFF COUNSEL CONHEIM: Adding the language at
22 the end of the first paragraph of Section C, so that the
23 line -- the last line says, "Reasonable efforts may
24 include but are not limited to any of the following:" Or
25 actually it should say -- this is the problem in doing

1 this on the fly -- "Reasonable efforts may include any of
2 the following but are not limited to" and then the
3 continuing text. Just so that it's on the record, Madam
4 Chair.

5 CHAIRPERSON MOULTON-PATTERSON: Okay.

6 BOARD MEMBER PAPARIAN: So we have that. We have
7 the errata sheet with the change of "feasible" to
8 "economically feasible to recycle" language that we
9 discussed earlier, and the other items on the errata
10 sheet, and the regulations as they are in the notebook
11 with the italics.

12 STAFF COUNSEL CONHEIM: With the italic language,
13 correct.

14 BOARD MEMBER PAPARIAN: Am I making it clear
15 enough what it is we're voting on?

16 STAFF COUNSEL CONHEIM: Yes. And then including
17 the specific finding on the CEQA exemption.

18 BOARD MEMBER PAPARIAN: Correct.

19 Okay. So with all that, I'm moving Resolution
20 2004-101.

21 CHAIRPERSON MOULTON-PATTERSON: Okay. Did you
22 want to second it, Ms. Peace? I think you --

23 BOARD MEMBER PEACE: I'll second that.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
25 motion by Mr. Paparian as stated, seconded by Ms. Peace.

1 Please call the roll again, just so we're all on
2 the roll.

3 SECRETARY WADDELL: Paparian?

4 BOARD MEMBER PAPARIAN: Aye.

5 SECRETARY WADDELL: Peace?

6 BOARD MEMBER PEACE: Aye.

7 SECRETARY WADDELL: Washington?

8 BOARD MEMBER WASHINGTON: Aye.

9 SECRETARY WADDELL: Moulton-Patterson?

10 CHAIRPERSON MOULTON-PATTERSON: Aye.

11 Okay. That brings us to No. 9.

12 DEPUTY DIRECTOR SCHIAVO: Item No. 9 is
13 consideration of the biennial review and SB 1066 time
14 extension processes.

15 And Cara Morgan will present this item.

16 MS. MORGAN: Prior to commencing each biennial
17 review cycle staff brings the proposed biennial review
18 procedures to the Board. The purpose of this item is to
19 present the 2001-2002 proposed biennial review procedures.

20 For the '01-'02 cycle the proposed procedures are
21 somewhat similar to those used in '99-2000 cycle. This
22 process will be similar in that we will continue to
23 determine if jurisdictions have met the diversion
24 requirements, need additional time, or should be
25 considered for a compliance order.

1 For those jurisdictions that are still on 1066
2 extensions, staff will continue to bring status updates to
3 the Board on these jurisdictions' progress in implementing
4 their plans.

5 Staff will also continue to conduct an extensive
6 review to determine each jurisdiction's program
7 implementation prior to bringing them forward to the
8 Board. However, for the '01-'02 biennial review cycle,
9 staff is recommending to present the Board with
10 streamlined agenda items for the following circumstances:

11 Where the jurisdiction has adequately met the
12 program implementation and diversion requirements.

13 Where the jurisdiction did not meet the diversion
14 requirements but demonstrated a good faith effort.

15 And where the jurisdiction adequately implemented
16 the programs in their SB 1066 extension plan and have
17 either met the diversion requirement or demonstrated a
18 good-faith effort.

19 Additionally, staff proposes to consolidate or
20 batch second SB 1066 requests. Typically these batched
21 items will be organized by region. The agenda item for
22 second-time extension requests will include an attachment
23 that will be a matrix format that lays out why each of the
24 jurisdictions are requesting additional time, what each
25 jurisdiction's barriers were, what programs and diversion

1 amounts they plan to target, and staff's analysis of each
2 of the jurisdiction's requests.

3 In addition to the proposed streamline agenda
4 items, staff proposes to prepare individual items for the
5 following circumstances:

6 When staff makes a recommendation that a
7 jurisdiction be issued a compliance order.

8 For jurisdictions petitioning the Board for their
9 first SB 1066 extensions.

10 When staff recommends additional programs to be
11 included in a jurisdiction's second extension request or
12 when staff recommends denying a second SB 1066 extension
13 request.

14 And, finally, requests for new petitions for
15 reduced rural diversion rates, base-year corrections, new
16 base years and/or sledge petitions.

17 Staff is proposing to commence the '01-'02
18 biennial review cycle this June.

19 Staff believes that this proposed process will
20 not only accelerate the '01-'02 biennial review
21 evaluation, but is also intended to free up staff time to
22 provide additional technical assistance to jurisdictions.

23 This concludes staff's presentation.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you.

25 Any questions?

1 Seeing none -- Ms. Peace.

2 BOARD MEMBER PEACE: Yes, I just have some
3 comments.

4 I support the streamlining of the agenda item
5 process and the 1066 review process as presented.
6 However, I feel very strongly that any jurisdiction that
7 is claiming they made a good-faith effort to get to 50
8 percent diversion better have a recycled content
9 procurement policy. When I can go to a Staples and get 30
10 to 50 percent post-consumer content paper at the same
11 price or less than regular paper, I know it's widely
12 available.

13 Also, there are few communities in California
14 where they're not building houses and remodeling old ones.
15 So I can't see why any jurisdiction serious about
16 diversion wouldn't be using a C&D ordinance to control
17 those heavy wastes.

18 So when these 1066 time extensions come to the
19 Board, they should have a buy-recycled policy, especially
20 since the Public Contract Code already requires that; that
21 they should have a good education and information program;
22 they should have a C&D ordinance; and they should be using
23 RAC when possible. I mean if they don't, I will have very
24 serious doubts as to whether they're really making a good
25 faith effort.

1 In fact I would like to go even, say, one step
2 further and I would like to propose that we only grant
3 extensions to jurisdictions that can demonstrate they're
4 in compliance with the PCC section that already requires
5 that local and state public agencies have -- that they
6 purchase recycled products.

7 So since it's already stated in the PCC code, I
8 don't think there would be any problem with that legally.

9 CHIEF COUNSEL CARTER: I'm sorry. I'd like to
10 take this issue under consideration before I opine on it.
11 If you'd give me just a couple minutes.

12 BOARD MEMBER PEACE: Okay.

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian,
14 while Ms. Carter --

15 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam
16 Chair.

17 And I agree with the direction that Mrs. Peace is
18 going in. I think that -- you know, there are some
19 requirements in statute for local governments regarding
20 recycled content procurement. And I think that that ought
21 to be a part of whether we evaluate -- or how we evaluate
22 somebody getting to a good-faith effort.

23 But I also want to raise another question and,
24 that is -- the full item would come to the Board if the
25 staff believes that we might have to take action in terms

1 of a compliance order. And that would be pretty much in a
2 situation where someone is not making a good-faith effort.
3 The decision about whether someone's making a good-faith
4 effort or not is somewhat subjective. And at times it
5 seems like that would be a Board decision whether someone
6 is making the good-faith effort or not. And for those
7 that perhaps the staff thinks kind of fall just on the
8 side of making the good-faith effort, the Board might look
9 at it and say, "Well, no, they're not really making a good
10 faith effort." But we may not have the tools or
11 information to make that determination under the scenario
12 that I see in this agenda item.

13 In other words you'd be bringing forward the
14 items that the staff thinks might lead to a compliance
15 order. But in our subjective judgment, the Board, we
16 might look at ones that you haven't brought forward with a
17 full item and also think that those might be needing a
18 compliance order as well.

19 So I'm a little bit hesitant about having this
20 abbreviated review of some of these that, you know, we
21 might look at and think might need a compliance order.

22 DEPUTY DIRECTOR SCHIAVO: Regarding that, the
23 jurisdictions that we would consider bringing forward that
24 would be considering good-faith effort are those that were
25 already considered good-faith effort by the Board and have

1 actually -- or they've been verified by staff's field
2 visits as well as discussions with -- you know, the same
3 discussions we have through every biennial review process.
4 So that wouldn't change.

5 If a jurisdiction dropped some programs or it
6 looked like they're diminishing efforts in certain areas,
7 then that would be considered a full item. But if they
8 were doing the same or more than they previously were,
9 then that's when we're considering just bringing forward a
10 streamline item.

11 If a jurisdiction was previously on an SB 1066
12 time extension, we would bring that one forward to the
13 Board automatically because the Board has not made an
14 initial determination of whether or not they were a
15 good-faith effort jurisdiction.

16 So those are the conditions regarding good-faith
17 effort that we were considering.

18 BOARD MEMBER PAPARIAN: On that last one it has
19 that it would be abbreviated if they've adequately
20 implemented programs in their SB 1066 extension and
21 demonstrated a good-faith effort. So you would be making
22 a decision on a good-faith effort on a 1066 extension, as
23 I'm reading No. 3.

24 DEPUTY DIRECTOR SCHIAVO: Well --

25 BOARD MEMBER PAPARIAN: So I think --

1 DEPUTY DIRECTOR SCHIAVO: Okay. I've got that
2 one wrong then. I'm sorry. Well, yeah. No, that's a
3 concern then.

4 MS. MORGAN: So I think, Board Member Paparian,
5 if that's something that you'd prefer that we do not
6 include in the streamlined item, those jurisdictions that
7 are ending time extensions and staff feel that they're
8 demonstrating good-faith effort, we certainly could bring
9 those forward as individual items.

10 BOARD MEMBER PAPARIAN: Okay. Maybe we should
11 hear the results from Ms. Peace's inquiry.

12 CHAIRPERSON MOULTON-PATTERSON: Are you ready,
13 Ms. Carter? Because we also have a public speaker, if you
14 need any more time.

15 CHIEF COUNSEL CARTER: Yes. Ms. Borzelleri will
16 address that question.

17 CHAIRPERSON MOULTON-PATTERSON: Okay. I'm going
18 to give you just a few more minutes.

19 Then Mr. Sweetser -- we'll move right along
20 here -- wanted to speak.

21 Welcome.

22 MR. SWEETSER: Good morning -- good afternoon,
23 Board members. This is Larry Sweetser on behalf of the
24 Rural Counties Environmental Services Joint Powers
25 Authority.

1 And primarily I just wanted to say thank you to
2 the staff for their efforts. And you should have our
3 letter already acknowledging that and the approach that
4 you're taking. We really worked well with staff and
5 appreciate all their input on our rural counties as we go
6 forward on our diversion efforts.

7 And I'm probably stepping into the middle of this
8 discussion, but we do want to thank the Board. And
9 especially going back to the SB 22 report where it did
10 have a recommendation in there to allow good-faith efforts
11 for -- especially in rural jurisdictions where there is
12 that demonstration that they have been doing the best that
13 they can, and focusing on the programs rather than on
14 focusing on spending money on numbers. So we will do what
15 we can to meet the criteria that you have for the
16 good-faith efforts. But I guess we'll wait and see what
17 those are.

18 So thank you very much.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you very
20 much.

21 All ready?

22 STAFF COUNSEL BORZELLERI: Well, I think one of
23 the issues we have here is that we've got people on the
24 market development side and people on the DPLA side, and
25 we're trying to make sure these all fit together.

1 There are two provisions in the Public Contract
2 Code, Section 12210 and 12213, that talk about local
3 public agencies.

4 I think that --

5 BOARD MEMBER PEACE: And also 12168.

6 STAFF COUNSEL BORZELLERI: Okay. Relating to
7 paper products, yes. Okay.

8 That actually require local agencies to make
9 recycled content purchases.

10 BOARD MEMBER PEACE: So they should be doing that
11 already?

12 STAFF COUNSEL BORZELLERI: They should be doing
13 that already, yes.

14 But the 1066 requirement, it's a good-faith
15 effort. But I don't believe there's anything specifically
16 that ties this in with 1066. In terms of the good-faith
17 effort, that's what I'm not clear on. So that's why I'm
18 having a problem, if you can understand that.

19 But these are actual requirements of local public
20 agencies. So if we have something in 1066 that does
21 require them to meet all other laws, then that would be
22 the case. And, unfortunately -- can Pat help me out with
23 that?

24 BOARD MEMBER PAPARIAN: Madam Chair?

25 CHAIRPERSON MOULTON-PATTERSON: Yes.

1 BOARD MEMBER PAPARIAN: Yeah, I'm wondering -- I
2 mean, you know, I'm interested in pursuing this. It
3 sounds like, you know, this is -- does staff maybe need a
4 little more time to figure out, you know, the requirement?

5 CHAIRPERSON MOULTON-PATTERSON: I totally agree.

6 BOARD MEMBER PAPARIAN: Yeah. And we're not
7 going to have any of these come back in the next month or
8 two. I'm thinking maybe we should put this over a month,
9 let the two divisions talk about what's in the law, what
10 are the requirements.

11 I think that -- you know, certainly Mrs. Peace --
12 and I'm certainly supportive of this -- expressed a desire
13 to incorporate, you know, some understanding of the
14 jurisdiction's compliance with the Public Contracting Code
15 in making the evaluations of good-faith efforts. We may
16 need to explore how that could be done.

17 And then, in addition, we have the question of
18 whether this ought to be narrowed a little bit, the
19 interchange that Mr. Schiavo and I had about Item 3 in
20 here and what that might mean in terms of what's
21 abbreviated and not abbreviated.

22 I think there's enough complication here that
23 maybe we should put this over a month, let the staff kind
24 of sort out what these requirements of the law and how
25 they might be incorporated into this discussion and what

1 that means and some of the other items we discussed as
2 well.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
4 Paparian.

5 Ms. Peace wants to speak.

6 BOARD MEMBER PEACE: I just did want to make it
7 clear that we shouldn't be approving any efforts if
8 they're not doing what the law already requires them to
9 do. So I think I feel pretty strongly about this and I
10 hope we can work out the legal --

11 DEPUTY DIRECTOR SCHIAVO: Yeah, is it possible we
12 could here this tomorrow afternoon when we have the other
13 piece of the puzzle here? We had some prior discussions,
14 and I think we could have it resolved tomorrow.

15 CHAIRPERSON MOULTON-PATTERSON: Either tomorrow
16 or next month, whichever works out. But I would like to
17 move ahead right now, if that's okay with everyone.
18 Because we still have four more items and a closed session
19 and it's 10 after 4.

20 BOARD MEMBER PEACE: Well, can we do it tomorrow
21 then?

22 CHAIRPERSON MOULTON-PATTERSON: Fine with me.

23 BOARD MEMBER PEACE: If Pat thinks they'll be
24 ready tomorrow, let's do it tomorrow.

25 CHAIRPERSON MOULTON-PATTERSON: Okay. On to No.

1 11.

2 DEPUTY DIRECTOR LEE: Good afternoon, Madam
3 Chair, members of the Board.

4 Madam Chair, with your permission, I'd like to
5 ask the Board to consider first Item 14. We have several
6 members from local jurisdictions that are here to testify
7 on behalf of this item. And I would like to say they've
8 been waiting patiently. And we'd like to accommodate them
9 if at all possible within --

10 CHAIRPERSON MOULTON-PATTERSON: That would be
11 great. Yes, we do have three speaker slips on No. 14.
12 So --

13 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

14 Item 14 is consideration of the grant awards for
15 the Waste Tire Enforcement Grant Program for Fiscal Year
16 2003-2004.

17 Don Dier and Waste Tire Branch enforcement staff
18 will make the staff presentation.

19 MR. DIER: Thanks, Jim.

20 Madam Chair, Board members.

21 An increase in effective waste tire enforcement
22 program was recommended in the AB 117 report in the late
23 nineties and then embodied into the requirements of SB
24 876.

25 It's imperative that the Board continue its

1 effort to fund the locals because until recently the Board
2 only had four enforcement staff for the entire state in
3 150,000 square miles. At that, we were able to do about
4 an average of 180 inspections per year.

5 Well, now the regulated community is populated
6 with over 15,000 businesses. So four people, it's a
7 bit -- it would be a bit of a daunting task to address all
8 of those needs.

9 But I am happy to report that our enforcement
10 staff has increased 50 percent. We have gone from four to
11 six. That's not through the generosity of the Department
12 of Finance however. It's through juggling within our
13 internal resources. We shifted a southern California
14 used-oil staff person over to the tire program in the L.A.
15 Office. And Dave Volden out of northern California, who
16 had been managing these enforcement grants for a number of
17 years, rotated into field staff work. To backfill his
18 effort to be a coordinator for this cycle, Sue
19 Happersberger transferred over on loan from the P&E
20 Division. And so we've been doing a bit of juggling.

21 Sue will be rotating into the E-waste program.
22 And Amalia Fernandez has rejoined us into the tire
23 program, and she will become the primary point of contact
24 for the Enforcement Grant Program. A lot of juggling, but
25 that's sort of been life for the last few years in the

1 tire program given that, you know, we didn't get the
2 resources we needed.

3 But we won't go there.

4 I would like to give some -- just some brief data
5 though, because this program is so important to the
6 success of the entire waste tire program. Last year our
7 grantees -- and, again, I'd like to remind the Board that
8 two years ago we brought the matter to you, and you
9 approved a change in the structure of this program to
10 address the issues as to why it was not being subscribed
11 to as well as it could have or should have been. And so
12 we made those adjustments, and we've seen marked
13 improvement each year since then. We're ramping up and we
14 will continue to ramp up as we get more and more of the
15 appropriate jurisdictions into the program.

16 But last year our 24 grantees conducted almost
17 2600 inspections and issued almost 400 letters of
18 violation. That was last year.

19 Now we're expecting that the current year --
20 we're projecting that with the grantees that we have in
21 place this year that the inspections will be hitting
22 almost 5,000.

23 We are bringing forward to you -- we have 24
24 currently into the program. We are bringing forward, and
25 Sue will be presenting the details, 36 jurisdictions

1 recommended for funding. Thirty-nine applied. We're
2 recommending that three not be funded. And we're
3 expecting that those 36 jurisdictions will be able to
4 conduct over 10,000 inspections next year. Again,
5 remember, that our population is over 15,000 businesses
6 that need to be inspected on a regular basis.

7 So I just can't say hard enough the importance of
8 this program to having an effective enforcement effort.

9 Before I turn it over to Sue I would like to add
10 some acknowledgments. We've been -- because of the
11 staffing situation, we've been struggling with carrying
12 out many, many aspects of the program, from our
13 commercialization grants to our cleanup grants, just
14 throughout the program. But I'd like -- especially
15 because we're on the topic of enforcement grants today,
16 I'd like to extend some acknowledgements to some staff.

17 Lillian Conroe is here. She's the supervisor of
18 our L.A. office, with the four staff down there. She is
19 doing an exemplary job of trying to manage that program
20 from 400 miles away. That's a daunting task. You have
21 distance, you have -- here it's easy to just walk down the
22 hall and talk to somebody. It's an extra challenge to
23 manage staff and to manage a program of this magnitude
24 from 400 miles away. So I'd like to acknowledge her
25 efforts and the efforts of her staff.

1 I would also like to acknowledge the efforts of
2 Sue Happersberger for stepping in on short notice and
3 pulling together this cycle for this award. She did a
4 stellar effort of marketing, of getting the -- trying to
5 get the information out to the jurisdictions that we
6 thought should be in the program. And I think she
7 deserves some recognition. She's going to be -- like I
8 said, going to E-waste. But her work will live on because
9 of the people that will be in the program.

10 Lastly, I would like to acknowledge the Northern
11 Enforcement Supervisor, Georgianne Turner. I think she's
12 probably hiding back here somewhere. George came to us
13 last year from P&E Division, filling a vacant position.
14 George has put her heart and soul into this program.
15 She's overseeing the permitting program, the enforcement
16 program, the training of the grantees. We're developing
17 an inspection -- a scannable inspection form that will be
18 available and starting July 1 for all of the grantees on
19 our Loan Enforcement staff. And she's been working with
20 IMB and Doug Ralston and his folks to try and develop a
21 database to be able to track all of these inspections from
22 all the forms that will be scanned in.

23 And I just -- I just want to say thanks to George
24 because she -- like I said, she's put her heart and soul
25 into this program. And I just wanted to publicly say how

1 much I appreciate what she's done.

2 With that, I think it's probably time to turn it
3 over to sue to get the detail to you. Okay?

4 But I just wanted to make sure that those words
5 were said.

6 CHAIRPERSON MOULTON-PATTERSON: I certainly
7 appreciate you pointing them out. And, Don, we want to
8 thank you too. You've really all been working very hard
9 down there. And we understand that resources have been
10 really scarce. So thank you all very much.

11 Sue.

12 MS. HAPBERSBERGER: Good afternoon, members of
13 the Board. Sue Happersberger with the Board's Waste Tire
14 Enforcement Branch.

15 CHAIRPERSON MOULTON-PATTERSON: Excuse me for a
16 moment, Sue. I forgot.

17 Mr. Washington, did you want to --

18 BOARD MEMBER WASHINGTON: Yeah, I want to hear
19 from her first.

20 CHAIRPERSON MOULTON-PATTERSON: Oh, okay. Great.

21 MS. HAPBERSBERGER: Eligible applicants for the
22 Waste Tire Enforcement Grant Program include cities and
23 counties with experience in enforcement of the laws and
24 regulations and protection of public health, safety, and
25 the environment.

1 We expect staff to be dedicated to providing
2 inspection services to the Waste Tire Enforcement Program.
3 The duties of the grantees include identifying waste tire
4 piles, investigating and inspecting waste tire facilities
5 and points of generation, examining waste tire hauler
6 registration manifest documents, and following up on waste
7 tire complaints and referrals.

8 The grant program focuses on conducting
9 inspections, which could include surveillance and initial
10 enforcement activities, such as the issuance of letters of
11 violation or LOV's when violations of applicable statutes
12 and regs are discovered.

13 The grantee has primary responsibility for
14 inspections and issuance of LOV's and will refer
15 violations that are not corrected at the LOV stage to the
16 Board for further enforcement actions including
17 administrative and civil penalty actions.

18 We distributed the notice of funds available for
19 this program to approximately 140 interested parties. It
20 was also made available on the Board's website and in an
21 article posted in the California Association of Code
22 Enforcement newsletter.

23 The Application period was from November 2003 to
24 January 23rd, 2004. We received 39 applications, a 36
25 percent increase from last year, and a total requested

1 amount just over five and a half million dollars. The
2 maximum grant is 300,000 per year per eligible applicant.

3 We had a review panel of four staff including a
4 representative from our Grants Administration Unit. And
5 we notified all the applicants of the results of the
6 review of their application.

7 We've included the results of the proposed awards
8 and the amounts recommended in the amended Attachment 1 of
9 the agenda item. The amount recommended for funding is
10 \$4,712,549.04. Budgets were amended in the review process
11 to make them consistent with the application requirements,
12 instructions, and eligible costs.

13 Amendments have been made to the item Attachment
14 1 and resolution due to some mathematical and rounding
15 discrepancies in a couple of the applicants' amended
16 budgets.

17 Also reflected in the amendments, one initially
18 approved applicant did not submit all required
19 documentation to complete their application. So staff are
20 not recommending the funding of that grant application.

21 Board staff will be assessing program eligibility
22 requirements to ensure that if we become oversubscribed in
23 future years, we will be able to adjust accordingly. Next
24 year we will be pursuing additional Waste Tire Enforcement
25 Grant funding opportunities in areas of the state that

1 need waste tire oversight.

2 Board staff is recommending approval of funding
3 recommendations in the amended Attachment 1.

4 This concludes staff presentation. Staff are
5 available for questions. In addition, there are several
6 grantees present who have asked to address the Board.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you.

8 Mr. Washington, did you wish to --

9 BOARD MEMBER WASHINGTON: Yeah, Madam Chair.
10 Thank you.

11 I just have some problems here as it relates to
12 the non-funding of two of these that I see on -- is this
13 the amended attachment?

14 The City of Soledad, why wasn't they funded?

15 MS. HAPPERSBERGER: City of Soledad had only one
16 site, which was too few to make a valid program.

17 BOARD MEMBER WASHINGTON: And when you say too
18 few, what do you mean by too few?

19 MS. HAPPERSBERGER: Well, their application was
20 incomplete and they only had one site to inspect in their
21 application.

22 BOARD MEMBER WASHINGTON: Okay. And then for
23 City of Los Angeles, now.

24 MS. HAPPERSBERGER: The City of Los Angeles
25 proposed an incomplete program without any inspections,

1 which is the core of this grant program, as stated in the
2 application instructions. And other parts of their
3 proposal did not conform to the application instructions.
4 Their proposal didn't meet the intent of the program.

5 BOARD MEMBER WASHINGTON: And I just -- you know,
6 I'm just having difficult understanding how that -- my
7 staff was told one of -- the first time that the reason
8 was because there was no resolution from the City of L.A.;
9 is that correct?

10 MS. HAPPERSBERGER: That was for San Francisco.

11 BOARD MEMBER WASHINGTON: She said that was told
12 for L.A.

13 Nevertheless, let me -- the City of Los
14 Angeles -- wait, let me just give you my thoughts on this.
15 The County of Los Angeles is larger than 33 states. And
16 \$116,000 is not even a drop in the bucket to cover the
17 County of Los Angeles, which incorporates the City of Los
18 Angeles. The City of Los Angeles is the second largest
19 state in the country. And I'm just having a very
20 difficult time understanding how the City of Los Angeles
21 didn't meet the requirements, because just in my -- Madam
22 Chair, my 52nd District, which I encompass some of Los
23 Angeles, I can take \$300,000 right now and spend it on
24 cleaning up tire programs and inspections and things of
25 that nature just going down the Alameda corridor.

1 And I'm really having a difficult time. And I
2 don't believe I'll vote for this because I don't believe
3 that the City of Los Angeles has been treated fair on this
4 particular issue. And that I will would like further
5 clarification and I would like to look at this a little
6 further to see what's really behind the City of Los
7 Angeles not receiving some of these funds for this waste
8 tire enforcement program.

9 We have a lot of problems down in the City of Los
10 Angeles with tires. They're all up and down the streets,
11 in back of yards and things of that nature. And it's
12 really hard for me to believe that they didn't meet the
13 requirements to receive these funds.

14 MS. TURNER: You know, Mr. Washington, I --

15 CHAIRPERSON MOULTON-PATTERSON: Your name for the
16 record please.

17 MS. TURNER: Georgianne Turner of the Tire
18 Enforcement Branch, northern California.

19 I very much hear what you're saying. And we
20 would really like to get the City of Los Angeles into our
21 program because there are so many facilities in that area
22 and that would greatly help out our staff. And they would
23 be great asset to our program.

24 However, the applicant that submitted the
25 application was part of their Public Works Department. I

1 do not think they were savvy on our grant procedures.
2 They did not follow the instructions. And so from staff's
3 position and the panel's position, we had to evaluate that
4 application based on the instructions that we sent out.

5 And we will be targeting that area for next
6 year's grant because we would like to see them succeed.

7 CHIEF COUNSEL CARTER: Madam Chair --

8 BOARD MEMBER WASHINGTON: You know, again, I just
9 have a tough time -- so was there any communication with
10 them in terms of helping them, knowing that the problem is
11 so significant down there, that you guys -- do you help
12 them along the way when they start sending these
13 applications and say, "Hey, you guys, you have a lot of
14 problems down there. You need to fix this," or maybe they
15 need to go to a higher level person down there? I mean
16 what's the procedures? You just take the application; if
17 they don't make it, they don't make it, pretty much?

18 MS. TURNER: Yes, that's how our procedure looks.
19 But, however, you know, we are available prior to that
20 application date to work with them. If we would have
21 gotten that in early, you know, we could have maybe worked
22 with them on that.

23 BOARD MEMBER WASHINGTON: I'm not going to vote
24 for this. It's just a lot of money, \$4 million. And the
25 City of Los Angeles needs as much help as they can get.

1 And I just don't believe that we should be sending out
2 grants like this and not include cities of such large
3 populations without providing -- I mean it seems like we
4 probably should have took some initiative at this point.
5 And you probably can't do it all the time. I don't know.
6 I have no clue. You guys are the ones who work the
7 program. But as a Board member just sitting looking at
8 this thing and to talk about Ms. Conroe, who's doing an
9 excellent job out in L.A., I'm missing the connection here
10 somewhere.

11 DEPUTY DIRECTOR LEE: Mr. Washington, maybe if I
12 could talk a little bit about --

13 CHAIRPERSON MOULTON-PATTERSON: Ms. Carter wanted
14 to speak too.

15 Did you want to speak before on a legal -- go
16 ahead, Mr. Lee.

17 DEPUTY DIRECTOR LEE: I think the situation with
18 the City of Los Angeles is it, you know, kind of takes two
19 to Tango, you know. And we put out the instructions, we
20 notify all the districts appropriately. As you can see,
21 we had 36 applicants, you know, that did comply with all
22 the requirements of the program.

23 BOARD MEMBER WASHINGTON: Yeah, but we're a
24 regulatory board. And for this to go into this two to
25 tangle stuff, that's where I think the problem is. I

1 think that's exactly the problem, that we don't need to be
2 tangling if we're a state regulatory board trying to help
3 local governments. There's no need to tangle.

4 DEPUTY DIRECTOR LEE: Oh, I mean -- I said Tango.
5 It was a figure of speech, using some vernacular.

6 You know, the point is we need cooperation from
7 the local jurisdictions. We can't ram the program down
8 their throat. You know, they were appraised of the --
9 apprised of the program and they knew what the
10 requirements were for the application. There was 36 other
11 jurisdictions, you know, that did submit application that
12 met the requirements that the Board approved. City of Los
13 Angeles did not.

14 As I said, this is an ongoing effort, you know,
15 to increase our efforts. We recognize that the City of
16 L.A. as being the largest jurisdiction in the state needs
17 to be included. And we intend to work -- increase our
18 efforts again to, you know, get to the appropriate people
19 in that jurisdiction that will be responsive, you know, to
20 our entreaties.

21 In other parts of our program, in the used-oil
22 program we have good cooperation. You know, for this
23 particular effort we have not to date. That is not to say
24 that cannot change in the future. And, again, we are
25 talking about ongoing funding, you know, being able to be

1 provided to these various jurisdictions.

2 And I think, again, to penalize the other
3 potential 36 jurisdictions, you know, that have submitted
4 programs, you know, because of the City of Los
5 Angeles's -- of lack of cooperation here is not fair or
6 appropriate.

7 CHAIRPERSON MOULTON-PATTERSON: You know, I
8 feel -- I must say this, I agree with Mr. Washington
9 sometimes. You know, the City of Los Angeles is facing
10 huge problems right now. Huge. And I just think that
11 we're here to let people know about these. I mean I
12 know -- I know Mayor Hahn. I know -- Carl knows most of
13 the council members. And, you know, I just think it is a
14 shame that they're losing out on this. So I, you know --

15 MR. DIER: Madam Chair, we share that concern.
16 We really wanted to have the City of Los Angeles in the
17 program. This is essentially an inspection program.
18 Their application proposed not conducting any inspections.
19 The application came from the street inspection portion of
20 Public Works. It didn't come from environmental health.
21 It didn't come from code enforcement.

22 BOARD MEMBER WASHINGTON: But, Don, wouldn't that
23 raise a concern for you then to say to someone, "Perhaps
24 you need to contact, because it doesn't seem like it
25 should come if the street inspection folks"?

1 MR. DIER: We didn't have time. I mean they got
2 the application in right on the deadline, and there was no
3 time to say -- to get another department to apply. We'll
4 make an effort to get the appropriate department in
5 next -- in the next cycle. But we have to evaluate what
6 is submitted.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. Ms.
8 Carter.

9 CHIEF COUNSEL CARTER: Thank you.

10 I would like to remind the Board this is a
11 competitive grant, and the Board has --

12 MR. DIER: Noncompetitive.

13 CHIEF COUNSEL CARTER: I mean this is a
14 noncompetitive grant. And because of that we -- like all
15 of our grants, like our competitive grants, we have
16 certain requirements that have to be met at the threshold.
17 And when an applicant submits an application that is
18 incomplete or doesn't address the underlying issue, the
19 Board doesn't -- or the Board staff does not have the
20 opportunity at that point in time so late in the process
21 to go back and work with the applicant to change the
22 application.

23 So I would suggest that it might be best just to
24 go forward with this particular award. And Board staff
25 has indicated that they'd be happy to work closely with

1 the city, to encourage them in helping to submit a
2 complete application.

3 BOARD MEMBER WASHINGTON: And, Madam Chair, I
4 would agree with Ms. Carter only if I didn't see a number
5 of other grants that came through this place where there
6 was some things that wasn't appropriate or wasn't done and
7 staff allowed other folks to submit the applications and
8 resubmit them. And it works with them. It's a good-faith
9 effort. And I hear that word around here all the time.

10 I'm just not there, Madam Chair.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
12 Washington.

13 Mr. Paparian has his light on.

14 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam
15 Chair.

16 And I'm very sympathetic to what Mr. Washington
17 is raising. I was concerned when we developed the
18 five-year plan on this particular item that we would have
19 what is essentially the biggest enforcement program in the
20 Waste Board, yet have a patchwork of jurisdictions that
21 are carrying forth this enforcement program.

22 The enforcement -- the money we have here would
23 allow the equivalent of 40 to 50 staff statewide to work
24 on enforcement in the tire program. Other agencies would
25 salivate at an enforcement program at that level. Yet the

1 way it's designed, we have some jurisdictions getting the
2 money and getting the program and other jurisdictions not
3 getting the program.

4 If we had a map of the state with the
5 jurisdictions that are getting the money, you would see
6 enormous holes in the state, enormous areas that don't
7 have the benefits of this enforcement program. That's
8 part of the reason why I pushed for -- and fortunately
9 it's in the five-year plan -- we're supposed to be putting
10 together a performance review of the enforcement program
11 in time for the next cycle of the five-year plan. And
12 presumably staff is working on developing that to bring
13 forward, because we need to get that thing under way if
14 we're going to have it done in time for the next five-year
15 plan.

16 But, again, I'm -- I mean I'm sympathetic. This
17 is exactly the sort of problem that really troubles me,
18 where you have a huge jurisdiction like Los Angeles and a
19 huge hole there, you know, where we're trying to struggle
20 with our overworked half a dozen enforcement staff to
21 cover Los Angeles and all the other areas that didn't put
22 forward applications.

23 MR. DIER: We couldn't agree with you more, Mr.
24 Paparian. We saw those holes. We filled 12 of them this
25 time. We increased, you know, up to 36. There are still

1 holes though. And we -- our effort is to try to fill
2 those holes in the next cycle.

3 BOARD MEMBER PAPARIAN: Yeah. And I think that
4 as we do the performance review, what we may need to do is
5 look at alternatives. Maybe we need to fund this by
6 county or maybe we -- I don't know how else we might do
7 it, but to assure we don't have, you know, some
8 jurisdictions getting the goodies and other jurisdictions
9 getting nothing.

10 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace has her
11 light on and would like to speak.

12 BOARD MEMBER PEACE: This item is to fund 36
13 jurisdictions. How many jurisdictions are there in the
14 state?

15 MR. DIER: Well, there's 58 counties and 500 and
16 some cities.

17 BOARD MEMBER PEACE: Okay. So out of those close
18 to 500 in total, only 36 are getting money to do this
19 program?

20 MR. DIER: Thirty-six that applied and met the
21 criteria.

22 BOARD MEMBER PEACE: So how are the other
23 jurisdictions handling the inspections and --

24 MR. DIER: If they -- if -- our staff are
25 responsible for the areas that are not covered by a

1 grantee. That's our responsibility.

2 BOARD MEMBER PEACE: You know, I think I have to
3 agree with Mr. Paparian on this one. I mean with the kind
4 of money we're talking about we could hire 50 full-time
5 enforcement personnel.

6 MR. DIER: I'd love to.

7 BOARD MEMBER PEACE: And divide up the state in
8 regions and have 50 people doing this so that the whole
9 state is covered, instead of this like patchwork type of
10 thing it seems like we're putting together here.

11 MR. DIER: The patchwork is the result -- it may
12 appear to be patchwork, but it's a conscious effort on our
13 part -- and Dave Volden started this two years ago -- with
14 marketing the program to those areas of the state that
15 need it the most. We're not marketing up in Modoc County.
16 We're marketing down in the Central Valley and the Bay
17 Area and the South Coast and out in the desert where the
18 tire problems are. And that's -- it may appear to be a
19 patchwork, but it's really trying to address the problems
20 where they exist.

21 CHAIRPERSON MOULTON-PATTERSON: We do have
22 speakers. I mean I -- really I've got to be honest, I
23 don't know whether to pull it right now. I mean it
24 doesn't look like we're going to have the votes for it.
25 But these people have sat here all day and I'd like to

1 hear from them.

2 Did you wish to speak, Mr. Leary, before we
3 go on --

4 EXECUTIVE DIRECTOR LEARY: Madam Chair, I think
5 you should hear from the speakers. I don't mean to
6 interrupt that process. But I also was going to suggest
7 that maybe we table this overnight, allow staff to stew on
8 the direction. And you've spoken very forcefully. And I
9 have some understanding -- I have some ideas I'd like to
10 explore with staff before we conclude this item.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

12 And Mr. Steve Kalvelage -- I'm not sure if I
13 pronounced that right -- from Sacramento county LEA.

14 Thank you for your patience.

15 And he'll be followed by Manuel Ruiz from Madera.

16 MR. KALVELAGE: Good afternoon, Board. I'm Steve
17 Kalvelage with Sacramento County LEA. I supervise the
18 staff that does the actual inspection work for Sacramento
19 County.

20 And I wanted to take an opportunity to speak
21 positively about this program and how it's occurred in
22 Sacramento County. And then -- I'll try and be brief
23 because there's constraints. But there's some synergies
24 that occur with a state-local connection like this that I
25 didn't hear spoken to earlier. And I'd like to address

1 those too.

2 So we -- this is our first year for the grant.

3 We initiated the grant in October. So that's six months

4 ago. In those six months we've done 363 inspections.

5 That's everything from your neighborhood corner gas

6 station that changes tires on a car once a month to a

7 Costco that does thousands and thousands of tire changes.

8 In this ability to get out on the streets with

9 staff that is knowledgeable about the requirements in the

10 regulations and is empowered to share that knowledge with

11 each of these stops that they wind up at from auto body

12 shops to large retail auto dealers, that is getting the

13 word out and it's making this program an actual reality.

14 Whereas there are a number of programs that I would call

15 unenforceable regulations, where it may be that there is a

16 regulation that states, "This must occur." If you don't

17 have staff in the streets doing the enforcement, you don't

18 have a program.

19 And what I'm seeing with this grant program is we

20 at the local level have the staff that does the

21 inspections, and in our department we've got over 50

22 inspectors that inspect everything from restaurants to

23 landfills, and there's some synergy, as I mentioned

24 previously, that occurs. We've got a database of all of

25 the different sites that we inspect.

1 As we started into the waste tire generator
2 program inspection, we found out that there's at least a
3 70 percent overlap with our HAZMAT, CUPA sites and
4 inspections. And there's a discussion between the
5 inspectors locally where we will indicate to the rest of
6 the staff, "If you see a site with over ten tires, feed it
7 to this individual." That's the waste tire person. And
8 that person is aware that if they see sites with certain
9 chemicals, they feed that to the CUPA programs and the
10 HAZMAT.

11 So I think it just reinforces the positive impact
12 of a local regulatory agency to have this type of
13 coverage.

14 I wanted to clarify that, and say that in a
15 larger scale there's effective ways to do programs and
16 there's more effective ways to do programs. I think the
17 fact that you're talking about an ability to hire 40 or 50
18 staff statewide, are you looking at the overhead for these
19 staff, are you looking at the travel time, are you looking
20 at -- are you going to office them in Sacramento and send
21 them all over the state? We at a local level have a
22 reasonable commute time of being 30 to 40 minutes away
23 from all these facilities. We can do five to ten
24 inspections a day. If you have state staff offices at
25 certain central locations, you're going to have

1 transportation, you're going to have overhead, you're
2 going to have a less effective program than if you give
3 the locals the funds to hire a staff that's dedicated to
4 that program and works on the local area with this
5 program.

6 So that's -- I feel strongly about this program
7 and a positive impact it's had, both in Sacramento County
8 and I think what it states about the concept of a state
9 and local partnership being a more effective way to
10 present the program to the individuals in the state that
11 need to know it. We're getting out to all these sites and
12 explaining to them just what they can and cannot do with
13 waste tires, explaining to them that they need to be
14 tracked and that there will be repercussions if they're
15 not tracked. So I wanted to address that.

16 Not to belabor the point. But I've been in this
17 business for 27 years as a local regulator and I've done
18 everything from restaurants to septic tanks to landfill
19 inspections, and I've never seen such a positive example
20 of a state agency and a local agency working together to
21 arrive at an endpoint that's a benefit to the citizens of
22 the state. I've worked with DTSC. I've worked with DHS.
23 I've worked with Fish & Game. And the staff at the Solid
24 Waste Board understand the concept of shared
25 responsibility and will allow us to move forward with what

1 we are effective at and will provide us the resources and
2 support and expertise. We've relied on the state for
3 consultation on building our inspection form for putting
4 our training materials together.

5 So I guess I'll be brief, like I said I was going
6 to be, and say I think there's a very positive impact for
7 this program, and I would like to strongly encourage
8 continuation of this program and keep it going year to
9 year. We could not hire the staff till we got the grant.
10 We now have the staff in place. If the grant goes away,
11 that staff goes away. You're left with a program that's
12 not being effective.

13 CHAIRPERSON MOULTON-PATTERSON: I certainly hear
14 you, and I've very supportive of it. I don't want you to
15 get the wrong idea.

16 Can you just answer for me, how did you hear
17 about the grant? How did it all come to your attention
18 and --

19 MR. KALVELAGE: We get all LEA E-mails from --
20 sometimes more than we would want or need. But we get a
21 lot of communication on E mail from the State Board staff.
22 And there was a series of solicitations and information
23 that came out to us because we are listed on the state
24 website as the local contacts for LEA-type of
25 informations. So over a period of time these were

1 addressed. People made an actual phone call outreach to
2 our department. We are the state capital. We have a
3 number of waste tire facilities. It's appropriate that we
4 be involved in it. So that was the outreach.

5 CHAIRPERSON MOULTON-PATTERSON: Hey, I'm all for
6 it. I just want to make sure those outreaches are
7 available for Los Angeles too. And that's my point, is --
8 you know, the Board has for a long time, you know, wanting
9 to improve our outreach throughout the state.

10 So thank you very much, and I appreciate your
11 comments. And I do think we've got great staff that work
12 very, very well -- coming from the local government, I do
13 appreciate it. So thank you so much for your comments.

14 Manuel Ruiz, City of Madera Redevelopment Agency,
15 followed by William O'Rullian.

16 MR. RUIZ: Good after, Chairperson
17 Moulton-Patterson and Board members. Manuel Ruiz from the
18 City of Madera Redevelopment Agency.

19 I really wanted to thank you for the opportunity
20 of allowing the City of Madera to be part of this program.
21 The reason for that is because we -- we're talking on the
22 small side here. We're a small city. But we basically
23 have a huge problem. And I think you're aware of that
24 from our history.

25 Back in March of last year we had a tire amnesty

1 day of our own, using our own funds. And it was
2 basically -- we had a hundred and thirty thousand tires
3 show up, and we had to figure out what to do with those.
4 And we found out a lot of those -- most of those were
5 actually tires brought over from farmers in our county who
6 had been illegally dumped on.

7 And of course when we looked and scoured our own
8 alleys, we had 217 alleys in our city and we looked and we
9 found that there was just literally hundreds and hundreds
10 of tires being dumped there, not only from the county,
11 but -- in the city, but from other jurisdictions as well.

12 And so we saw, "You know, we have a real problem
13 here. We need to address this." And along with the
14 expertise of your staff and also a number of -- we had
15 E-mails as well. And staff approached us and said, "Hey,
16 how would you like to be part of this enforcement
17 program?" We figured out along with the help of your
18 staff of how to do that application. And then we followed
19 step by step. And the recourse for us is this grant as
20 well as a couple of other grants that we're using right
21 now to help out our city, and they are really working.

22 And so I'm in support of this. I want to say
23 thank you very much for the opportunity. And, you know,
24 we're doing this with using education, we're educating our
25 tire generators, we're collaborating with local agencies,

1 we're also using a -- this is a prevention device, because
2 we're going to the tire generators and we're saying, you
3 know, we're here now. And we have two -- a wonderful
4 gentleman that actually partner up with these folks and
5 give tire generators some empowerment. And it seems to
6 work out pretty well, because we've already had some
7 meetings where we had tire generators come in and have
8 ideas of their own to address this enforcement problem.

9 So we want to thank you.

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Well,
11 thank you so much for being here and sharing. We
12 appreciate it.

13 William O'Rullian, Kern County Environmental
14 Health Services Department, followed by Barbara -- I'm not
15 quite sure how you pronounce your name, I can't read it --
16 City of Fresno.

17 MR. O'RULLIAN: Thank you, Madam Chairman and
18 members of the Board.

19 I had something entirely different to talk about.
20 But I want to address the issue that has been raised by
21 Mr. Washington and other Board members.

22 I can tell you from a county perspective that
23 when this grant was being offered, all of us -- all of the
24 counties in the state knew about this. We had all
25 received E-mails. We had discussed in roundtables. It

1 was -- this is not a new issue. But before you cast
2 judgment on this, I would recommend that you ask those
3 county environmental health departments that did not apply
4 what their reasons were before making judgment on those
5 who did receive the grants.

6 There were overarching reasons at that time, even
7 that we considered in Kern County, particularly because of
8 the budget cuts that were looming for local agencies and
9 the imminent layoffs that would occur. And so even though
10 this looks great on paper that we would receive a certain
11 amount of money, the counties have to determine whether or
12 not what they are going to have to put forward in their
13 resources to actually implement the programs. And it may
14 be -- I'm just speculating -- I'll throw my tie over my
15 shoulder, not knowing the answer to this -- but I'm sure
16 that L.A. County Environmental Health and L.A. City had to
17 deal with those concerns and wonder what they were going
18 to do in terms of putting together an inventory of sites
19 and be able to actually meet the requirements of an
20 inspection program.

21 Now, Kern County is the third largest county in
22 the United States. Our county is larger than the State of
23 Massachusetts. And we share a border with Los Angeles.
24 The first tires I would like to see taken out of Los
25 Angeles are the ones on the biosolids trucks that come

1 over the Grapevine to Kern County.

2 But all that aside, I have to tell you that the
3 tire issues are not a county-only issue. They are
4 regional issues. Kern County, because of its
5 transportation hub for the southern San Joaquin Valley,
6 and the routes that come out of Los Angeles, has a lot of
7 tire generators and a lot of illegal dumping because we
8 have the wide open spaces. And it is not hard for a tire
9 generator, say, in Los Angeles County out in Landcaster to
10 come out into the desert in Kern County and dump 50,000
11 tires. And they have done that. There have been tire
12 sites that your Board staff have actually been involved
13 with in cleanups prior to this grant being offered to the
14 local agencies.

15 We're very in favor of this program for a number
16 of reasons. We have done now more than 359 inspections to
17 date. We've issued several letters of violation. I have
18 with me -- and I'd like to give this to Ms. Waddell --
19 this is just a notice and order that we just issued two
20 days ago on a site that would have never been -- never
21 come up on an LEA inspection. It was a yard -- or a
22 wrecking yard in a poor neighborhood where thousands of
23 tires were being buried. And this will be a superfund
24 cleanup site.

25 As my colleague mentioned, the Tire Grant Program

1 is a door opener. When you go and inspect sites that
2 heretofore have not been inspected by LEA's, there are
3 many public health issues that will come up. Some of
4 those are CUPA issues. Some of those are hazardous waste
5 issues.

6 Right now in the state there is great concern
7 about the West Nile Virus prevention programs, and every
8 county has developed strategic plans for that. Well, 50
9 percent of the state, not the large cities, but all the
10 other rural areas of the state, do not have mosquito
11 abatement districts that cover those areas. So the Tire
12 Enforcement Program actually becomes a defacto first line
13 of defense for these West Nile Virus strategic plans that
14 counties are putting together.

15 We had a meeting last week in the City of
16 Ridgecrest, an area where there is no mosquito abatement
17 district, and we pulled together the BLM, city code
18 enforcement, our tire inspector, and other parties that
19 were -- that are involved in the desert area there. And
20 one of the main issues we discussed was how we would
21 coordinate and collaborate on tires, because of the threat
22 that tires -- tire piles or improper storage of tires
23 pose.

24 I'd like to -- I know we're up against the time
25 issue here. But I'd like to say that we are -- I feel

1 that we are good stewards of the program. We evaluate our
2 tire inspections monthly. Our tire inspectors have to
3 report the number of inspections. We work with the other
4 cities within Kern County, and there are 11 of them, and
5 they are thrilled with this program because we deliver it
6 to all of those cities -- those small cities.

7 And then we -- our cost control has been very
8 efficient. And like my colleagues have said, we believe
9 that we -- in fact the tire grant amount that we had been
10 issued the year before, I doubt that we'll even get to
11 two-thirds of that amount in expenditure because we
12 have -- because of our fears of the budget, we just aren't
13 going out and buying vehicles to do inspections. We've
14 had to cut back on some of our costs that way. But in
15 other ways we have -- have eight people out there that are
16 doing inspections, one full-time person that we hired as
17 an extra help person under the grant fund.

18 Last week was National Public Health Week. And I
19 submit to you that I believe that this program deserves
20 recognition by the Department of Health Services simply
21 because of the work that we are doing, not only with the
22 West Nile Virus prevention issues that are related to
23 tires, but all the other public health issues that have
24 emerged when we go into these substandard sites in
25 neighborhoods that are often in blight. And these tire

1 piles aren't going to show up in Beverly Hills. Thousands
2 of tires aren't going to be sitting around in West Los
3 Angeles. They're going to be out in the outlying areas or
4 in the neighborhoods where people cannot -- where the land
5 is cheap or they will be in the adjoining counties.

6 I appreciate this time to make this presentation.
7 If you have any questions, I'd be glad to answer them.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you very
9 much, Mr. O'Rullian.

10 I believe it's Barbara Miller. Is that right?

11 MS. MILLER: That is correct.

12 CHAIRPERSON MOULTON-PATTERSON: I thought it was
13 a U, the double L.

14 Barbara Miller, City of Fresno Code Enforcement
15 Division.

16 MS. MILLER: Good afternoon, members of the
17 Board. My name is Barbara Miller, and I am a Senior
18 Neighborhood Services Specialist in the Code Enforcement
19 Division with the City of Fresno. I supervise the Waste
20 Tire Enforcement Program.

21 The City of Fresno started the Waste Tire
22 Enforcement Program in May of 2003. We have two full-time
23 inspectors who have been contacting the over 400
24 businesses who generate, transport, and/or haul waste
25 tires in the City of Fresno. To date we have inspected

1 over 170 operations, who are now in compliance with the
2 city waste tire regulations.

3 Personal contact is made with the operators of
4 each facility. The manifest, storage and hauling
5 requirements and the reasons for the regulations are
6 explained in detail. Outreach material is given out to
7 each operator, such as: The waste tire manifest system
8 guidance annual and field reference guide, available in
9 both Spanish and English; fliers advising that those who
10 are responsible for illegal dumping and/or hauling tires
11 will be subject to fines; a list of registered legal tire
12 haulers in their area; the tire program identification
13 application; and a brochure created by the City of Fresno
14 which gives the highlights of the program plus contact
15 information for state and local personnel.

16 Our inspectors have found that the educational
17 aspect of their job is very important and fruitful. The
18 operators are thankful that the program is being so
19 thoroughly explained to them and that our staff can be
20 contacted to answer their questions.

21 Their responsibilities, the importance of
22 compliance, and the consequences of noncompliance are also
23 thoroughly explained to the waste tire operators.

24 We also have two additional inspectors who are
25 assigned full-time to surveillance work. One, a

1 post-certified retired PD officer. These inspectors work
2 closely with the city police department, the sheriff's
3 department, the county and city attorney's office, to
4 catch and find those responsables for illegal dumping.
5 They have found that waste tires are involved in about 95
6 percent of all illegal dumping cases they investigate.
7 Often the illegal dumped debris piles consist entirely of
8 tires. These inspectors have issued criminal and
9 administrative citations to those responsables for
10 illegal -- for those responsible for illegally dumped
11 tires and have had those responsible pay for the removal
12 and proper disposal.

13 We are also establishing a hot line for residents
14 to report those that they know are illegally dumping.

15 We have removed over 15,000 illegally dumped
16 tires from city streets, park strips and alleys, and open
17 vacant lots in the past seven months alone. We removed
18 one large pile, over 2,000 tires made up of mostly diesel
19 rig tires. We are planning neighborhood tire removal
20 events where the public can dispose of their tires that
21 are in their backyards or garages before they end up in
22 the alley.

23 We will also be educating the public about why it
24 is important to properly dispose of waste tires in a legal
25 and environmentally safe fashion.

1 We have found that this program has had a very
2 positive effect on our community. The illegal disposal of
3 waste tires has long been a major problem for the City of
4 Fresno.

5 For those of us who live in Fresno the difference
6 this program is making is very apparent. The tire dealers
7 are well aware that we are monitoring their waste tire
8 stocks and disposal actions. The state's Waste Tire
9 Program is allowing us to make significant gains in
10 addressing the major problem of illegally dumped waste
11 tires that accumulate on our public right-of-ways.
12 Without the state funding we simply would not be able to
13 address the problem of illegally dumped waste tires in the
14 aggressive fashion that we are now.

15 Thank you.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you. And
17 it sounds like you're doing a wonderful job. We
18 appreciate you sharing with us.

19 Okay. As we said, this will be tabled until
20 tomorrow. Hopefully we can work it out.

21 Ms. Peace.

22 BOARD MEMBER PEACE: You know, I don't mind the
23 locals doing this program. I guess what concerns me is
24 that some jurisdictions might be doing the program and
25 doing the inspections and then we have other ones that

1 aren't. And I'd like to make sure that the whole state is
2 covered.

3 But because L.A. is so big I would like to see
4 them get some grant money. But at the same time I don't
5 want to penalize the other jurisdictions that have
6 applied. Since this program was underfunded, couldn't
7 staff go ahead and put out another NOFA and make sure that
8 L.A. gets it right?

9 DEPUTY DIRECTOR LEE: Ms. Peace, we're going to
10 investigate overnight here. We'll talk with the Legal
11 Department to see exactly what kind of latitude we have
12 here.

13 I don't think there's enough time to go out for
14 another grant cycle between now and June 30th. You know,
15 we can -- like I say, we're going to talk about available
16 options and we'll be prepared to discuss those with you
17 and the rest of the Board tomorrow.

18 BOARD MEMBER PEACE: Okay.

19 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
20 Thank you, Ms. Peace.

21 We don't have any speaker slips for number 11, 12
22 and 13.

23 Did you have a suggestion, Mr. Paparian?

24 BOARD MEMBER PAPARIAN: Yeah. If it doesn't
25 inconvenience anybody in the audience, unless there's

1 someone who wants to speak on one of those items, I was
2 going to suggest that, given the lateness of the day and
3 our need to have our closed session, that if we could put
4 over the rest of the items until tomorrow. I think it
5 will give the tire staff also a chance to regroup and be
6 ready to talk to us about the item we just talked about as
7 well as the other items.

8 CHAIRPERSON MOULTON-PATTERSON: That would be
9 fine with me.

10 Does any Board member have an objection?

11 Okay. Then the Board will adjourn into closed
12 session at this time. And we'll be taking up tomorrow 11,
13 12, 13, 14, 24, 25, 21, 17, 15, 20, 22, and 23. So we're
14 going to have a full day tomorrow.

15 That you all very much.

16 (Thereupon the California Integrated Waste
17 Management Board meeting recessed at
18 5:00 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
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7 meeting was reported in shorthand by me, James F. Peters,
8 a Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 19th day of April, 2004.

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